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Thomas Hardy

Thomas Hardy



THOMAS HARDY.

James Oglethorpe

THE
TRIAL AT LARGE
OF
THOMAS HARDY,
FOR
HIGH TREASON;

Before the SPECIAL COMMISSION,

AT THE

Session-House in the OLD-BAILEY :

BEGAN ON

*Tuesday, October 28, and continued until Wednesday,
November 5, 1794.*

With the Whole Proceedings of the ATTORNEY and
SOLICITOR GENERAL on the Part of the Crown ;

AND

Mr. ERSKINE and Mr. GIBBS for the Prisoner.

BY JOHN NEWTON, Esq.

LONDON:

SOLD BY H. D. SYMONDS, NO. 20, PATERNOSTER-ROW.

[Price 1s. 6d.]

THE

TRIAL OF

OF

THOMAS RAMONT

FOR THE

REBELLION

IN

1864

IN

1864

IN

1864

1864

TRIALS FOR TREASON.

Thursday October 2.

THIS day the special commission for trying the persons committed to the tower, &c. charged with Treasonable Practices, was opened at the Sessions-House, Clerkenwell Green, before Lord Chief Justice Eyre, the Lord Chief Baron Hotham, Mr. Justice Buller, Mr. Justice Grose, and Mr. Justice Lawrence, the Commissioners therein named.

GRAND JURY.

Benjamin Winthrop, Foreman,	George Ward,
John Snidey,	Thomas Boddam,
Edward Ironsides,	Joseph Lancaster,
Benjamin Kenton,	Robert Wilkinson,
Robert H. Boddam,	Thomas Cole,
John Aris,	George Galway Mills
W. H. Boddam,	Henry Wright,
John Perry,	John Hatchet,
John Hankey,	Robert Stephenson,
Samuel Cuff,	John Campbell, and
Thomas Winslowe,	Thomas Everett, Esqrs.
Samuel Hawkins,	

After they had been sworn in, Lord chief Justice Eyre delivered the following charge :

“ Gentlemen of this Grand Inquest,

“ You are assembled under the authority of the King’s Commission, which has been issued for the trial of the offences of High Treason and Misprision of Treason, against the person and authority of the King. The occasion for this Commission is, that which is declared, namely, that a traitorous and detestable Conspiracy has been forming for subvert-

ing the existing Laws and Constitution ; and for producing the system of anarchy and confusion, which have so fatally prevailed in France. A crime of that deep malignity, loudly calls on the Justice of the nation, to interpose for the better preservation of his Majesty's sacred person, and for securing the peace, and the laws and liberties of this kingdom.

“ Gentlemen, the first and effective step in this, as in the ordinary criminal proceedings, is, that a Grand Jury of the county should make Inquisition after the fact, should diligently enquire, discover, and bring forward to the view of the Criminal Magistrate, those offences which it is the object of this Special Commission to hear and to determine.

“ Gentlemen, you are Jurors for our sovereign Lord the King. You are so styled in every indictment which is presented. But let the true nature of the service be understood. The King commands you to enter on this enquiry. But the royal authority in this, as in every other function, is exerted and operates ultimately for the benefit of his people. It is the King's object to vindicate his peace, his crown and dignity ; because his peace, his crown and dignity are his subjects protection, their security and their happiness. It is ultimately for them, that the laws have thrown extraordinary fences around the person and authority of the King ; and that attempts against the one or the other, are considered as the highest crime which can be committed, and are punished with a severity which nothing but the *Salus Populi* can justify.

“ The business of this day, Gentlemen, calls upon me, in order that you may the better understand the subject which is to come before you, to open to you the nature of that office, which I have before spoken of generally. An ancient statute, 25th Edward III. hath declared and defined it. I shall state to you so much of that declaration and definition, as appears to me to have any probable relation to the business of this day. By that statute, it is declared high treason to compass or imagine the death of the King, provided such compassing and imagination be manifested by some act or acts, proved by two witnesses to have been done by the party accused, in prosecution of that compassing and imagination. That, from the moment that this wicked imagination of the heart is acted upon, that any steps are taken, in any manner conducive to the bringing about and effecting the design, the intention becomes the crime, and the measure of it is full.

“ Gentlemen, these acts or steps are technically denominated Overt Acts ; and the forms of proceeding, in cases of this nature, require that these overt acts should be particularly set forth in every indictment of treason ; and from the nature of them, they must constitute the principal heads of enquiry for the Grand Jury. These overt acts involve in them two distinct considerations ; first, the matter of fact, of which they

consist : In the next place, the relation of that fact to the design. With respect to the mere matter of fact, it will be for the Grand Jury to enquire into the true state of it, and I can have very little to offer to your consideration respecting it ; and with respect to the question, whether the fact has a relation to the design, so as to constitute overt acts, on this which involves considerations both of law and of fact, it is impossible that any certain rule can be laid down for your direction. Overt acts being in their nature all the possible means which may be used in the prosecution of the end proposed, they can be no other way defined, and must remain for ever infinitely various. Thus far, however, I can inform you, that occasions have, unhappily, but too frequently brought overt acts of this species of high treason under consideration, in consequence of which we are furnished with judicial opinions upon many of them. And we are also furnished with opinions drawn from this source, by some of the wisest and most enlightened men of their time, whose integrity has been always considered as the most prominent feature in their character ; whose doctrines now form great land marks, by which posterity will be enabled to trace, with a great degree of certainty, the boundary line between high treason and offences of a lower order and degree. It is a fortunate circumstance that we are thus assisted, for it is not to be dissembled, though the crime of high treason be the greatest crime against faith, duty, and human society ; and though the public is deeply interested in every prosecution of this kind, well founded, that there has been, in the best times, a considerable degree of jealousy on the subject of such prosecutions ; and as the consequences to the party accused are penal in the extreme, jurors and judges ought to feel an extraordinary anxiety, that prosecutions of this nature should proceed on solid grounds. I can easily conceive, therefore, that it must be a great relief to Jurors, placed in the responsible situation in which you now stand, bound to do justice to their country, and the persons accused, and anxious to discharge this first duty, equally sure I am, that it is a consolation and comfort to us, who have the responsibility of declaring what the law is in cases in which the public and individuals are so deeply interested, to have such men as the great Sir Matthew Hale and Sir Michael Foster for our guides. To proceed by steps, from those writers who speak upon the authority of adjudged cases, we learn, that not only acts of immediate and direct attempt against the King's life, are overt acts of compassing his death ; but that all the remoter steps, taken with a view to assist the bringing about the actual attempt, are equally overt acts of this species of high treason. Even the meeting and consulting what measures should be taken in order to bring about the end proposed, have been always held

to be acts done in prosecution of the design, and, as such overt acts of this treason. This is our first step in the present inquiry.

“ I proceed to observe, that what I have been now speaking of, has reference nearer, or more remote, to a direct and immediate attempt upon the life of the King. But the same authority informs us, that they who aim directly at the life of the King, such, for instance, as the persons concerned in the assassination plot, in King William's time, are not the only persons who compass the death of the King. The taking those measures, which, in the nature of things, or in the common experience of mankind, do obviously tend to bring the life of the King into danger, is to compass and imagine his death; and the measures so taken, amount at once to evidence of overt acts. The instances, put by Sir Michael Foster and Sir Matthew Hale, are of a conspiracy to depose the King, to imprison him, to get his person into the power of the conspirators, to procure an invasion of the kingdom, and some others.

“ The first of these appears to be the stronger case, and coming the nearest to a direct attempt against the life of the King; the last, the farthest removed from that direct attempt; but being a measure tending to destroy the public peace of the country, to introduce hostility, and the necessity of resisting force by force, and in its ultimate tendency, to bring the person even of the King into jeopardy, it is taken on the the sound construction of 25 Edward III and by the clear law of the land, that this is also compassing and imagining the death of the King.

“ Gentlemen, if a conspiracy, to depose or no imprison the King, to get his person into the power of the conspirators, or to procure an invasion of the kingdom, involves in it the compassing and imagining his death; and if steps, taken in prosecution of such conspiracy, are rightly overt acts of compassing and imagining the King's death, need I add, if it should appear that it has entered into the heart of any man, who is a subject of this kingdom, to design to overthrow the whole government of the country, to pull down, to subvert from its very foundation, the British Monarchy, that glorious fabric, which it has been the work of ages to erect, maintain, and support, which has been cemented by the best blood of our ancestors; to design such a horrible and cruel devastation, which no King could survive, which is a crime of such a nature, that no legislator of this country has ever ventured to contemplate in its full extent; need I add, I say that in a proposition of such enormous extent, the compassing and imagining the death of the King is involved, that it is in truth its very essence. This is too plain a case to require farther illustration from me. If any man of plain

sense, but not conversant with subjects of this nature, should feel himself disposed to ask, whether it is a specific treason to compass and imagine the death of the king, and not a specific treason to conspire to subvert the monarchy itself; I answer the statute of Edward III. has not declared this, which undoubtedly is one of the greatest of all treasons, to be a specific High Treason. I said, no lawgiver hath ever ventured to contemplate it in its whole extent. The *Seditio Regni*, spoken of by some of our ancient writers, seems to come nearest to it, but falls very short of it. The constitution of our government is so framed, that the imperial crown of the realm is the common centre of the whole, that all traitorous attempts upon any part of it are instantly communicated to that center, and felt there; and as upon every principle of public policy and justice, they are punishable as traitorous attempts against the king's person or authority, so according to the particular nature of the traitorous attempts made, they will come within one or other of the specific treasons against the king declared by 25 Edward III. This, greatest of all treasons, is sufficiently provided against by law.

“Gentlemen, I hardly need give you this caution in your enquiry, that it is expressly declared, by the highest authority, that there do exist in this country, men capable of meditating the destruction of the constitution under which they live. That declaration being extrajudicial, is not ground upon which you ought to proceed. In consequence of that declaration, it is become a public and indispensable duty of his majesty, to institute this solemn proceeding, and to impose on you the painful task of examining these accusations, which will be brought before you. But it will be your duty to examine them in a regular judicial course, that is, by hearing the evidence, and forming your own judgment upon it. And here I do not think it necessary to trouble you with observations on the other branches of the statute of the 25th of Edward III. The charge might conclude here, had not the particular nature of the conspiracy alledged to have been formed against the state been disclosed, and made matter of public notoriety by the reports of the two houses of parliament, which are now in every one's hands. That being the case, I apprehend it would not be thought I had fulfilled the duty which the judge owes to the grand jury, when questions, involving law, arise on new and extraordinary cases of fact, if I did not plainly and distinctly state to you what I conceived the law to be, or what doubts I considered might arise in law, upon that which is laid before you, according to the different points of view in which these facts may appear. It is a matter of public notoriety, that there have been Associations formed in this country, as well as in other parts of the kingdom, in order to ef-

fect a change in the constitution of the commons house of parliament, and to obtain annual parliaments ; and to some of these Associations, other purposes, hidden under the veil, purposes the most traitorous, have been imputed ; and that some of these associations have been supposed to have actually adopted measures of such a nature, and to have gone to such excesses, as will amount to the crime of high treason. That a parliamentary reform was a mere colour and pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country. Whether it be so or not, is mere matter of fact. I shall only remind you, that a charge of this nature, which undertakes to make out the ostensible purpose a mere veil under which is concealed a traitorous conspiracy, requires full and deliberate examination, and the most attentive consideration ; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man imputes to another a design contrary to what he himself has expressed, but upon the fullest evidence. On the other hand, if the charge can be made out, it is adding to the crime the deepest dissimulation in those who have embarked in such a dark system of iniquity and wickedness.

“ But, gentlemen, suppose these Associations to have adopted the most profligate purposes, and to have no other view, it may be asked, Is it possible ? And, if it be possible, by what process is it that an Association, for the reform of parliament, can work itself up to the crime of high treason. Gentlemen may, nay gentlemen must, if they possess the faculty of thinking, reason on every thing that sufficiently interests them—that becomes an object of attention, and, among objects of attention, is that of a system of true government. The constitution of particular governments, and, above all, the constitution of the government under which they live, will naturally engage attention, and provoke speculation. The communication of sentiments is the source of all science, the first fruits and the ultimate happiness of society ; and therefore it seems to follow, that human laws ought not to interpose, nay, cannot interpose, to prevent the communication of sentiments, and opinions of voluntarily assemblies of men ; all which is true, with this single reservation—that those assemblies are to be so composed, and so conducted, as not to endanger the public peace and good order of the government under which they live.

“ Gentlemen, I shall not now state to you, that Associations and assemblies of men, for the purpose of obtaining a reform in the interior constitution of the British parliament, are simply unlawful ; but, on the other hand, I must state, they may, if I may say so, degenerate and become unlawful in the highest degree, even to the enormous extent of the crime of high treason. Gentlemen, to prove this, let us imagine to

ourselves this case : A few well-meaning men conceive, that they and their fellow-subjects labour under some grievance. They assemble peaceably to deliberate on the means of obtaining redress. The number increases, the discussion grows animated, eager, and violent. A rash measure is proposed, adopted, and acted upon. Who can say where this will stop, and that those men who originally assembled peaceably, shall not finally and suddenly, perhaps, involve themselves in the crime of high treason ? It is impossible to say how far an impetuous man may precipitate such assemblies into crimes of unforeseen magnitude and danger. But let it be considered, that bad men may also find their way into such assemblies, and use the innocent purpose of their association as a stalking horse to their purposes of a very different complexion. How easy for such men to practise on the credulity and enthusiasm of honest men, lovers of their country, loyal to their prince, but perhaps eagerly bent on some speculative improvement in the frame and interior mechanism of the law. If we suppose bad men to have once gained an ascendancy in an assembly of this description, popular in its constitution, and viewing popular objects, it will be easy for such men to implicate such an assembly in the most dreadful excesses. Thus far am I speaking in general, merely to illustrate this proposition ; that men who assemble to procure a reform in parliament, may involve themselves in the guilt of high treason. The notoriety of these associations leads me to suppose, that the project of a Convention of the people, to be assembled under the advice and direction of some of those societies, or of delegates from them, will be the leading fact, which will be laid before you in evidence, respecting the conduct and measures of these associations ; a project which, perhaps, in other times, would be hardly thought worthy of much consideration ; but, in these our days, when it has been attempted to put in execution, in a distant part of the united kingdom, and the example of a neighbouring country before our eyes, it has become deservedly an object of the jealousy of the law. Gentlemen, it will be your duty to give it the most serious attention to sift it to the bottom, to consider every part of it by itself, and as it stands connected with other parts, and to draw the conclusion of fact, as to the existence, nature, and object of that proposed Convention, from the whole of the evidence. As to bodies of men having been connected together, having voted different resolutions at different meetings, and as to several preparations of offensive weapons, and of the adoption of the language of the Convention of France, who have possessed the government of that country, I do not dwell on these particulars, because I consider them not as substantive treasons, but as circumstances of evidence tending to ascertain the true nature of the object which those persons had in view. It does

not fall within the province of this charge to consider that evidence in detail. My present duty is to inform you what is the law upon matter of fact, which in your judgment shall be the result of the evidence. I presume I have sufficiently explained to you, that a project to bring the people together in a Convention, in imitation of those National Conventions of France, in order to usurp the government of the country; and also one step taken towards bringing it about, would be a case of no difficulty. It would be the clearest high treason. It would be compassing and imagining the king's death, and not only his death, but the death and destruction of all order, religion, law, all property, all security for the lives and liberties of the king's subjects.

“ That which remains to be considered, is the project of a convention, having for its objects to effect a change in the mode of representing the people, and obtaining annual parliaments. And here the project of such a convention, taking it to be criminal, may be criminal in different degrees, according to the case in evidence, by which you will examine the true nature and extent of the plan, and manner in which it is intended to operate; and it will become an object of great importance under what class of crime it ought to be laid. In deciding on the complexion and quality of this project of convention, you will lay down one principle, which is never to be departed from—that alterations in the representation of the people in parliament, or in the law for holding parliaments, can only be effected by the authority of king, lords, and commons, in parliament assembled.

“ This being taken as a foundation, it seems to follow as a necessary consequence, that a project of a convention, which should have for its object the obtaining a parliamentary reform, and that object only but the attaining it without the authority of parliament, and steps taken upon it, would be high treason in all the actors of it. For this is a conspiracy to overturn the government. The government cannot be said to exist, if the functions of legislation are usurped for one moment; and then it becomes of little consequence, indeed, that the original conspirators at first perhaps only had in view a plan of moderate reform. In the nature of things, a power once usurped is out of their hands and beyond the reach of their control. A conspiracy of this nature is, therefore, at best a conspiracy to overturn the government, in order to new model it, which is in effect to introduce anarchy, and that which anarchy may chance to bring along with it, after the king may be brought to the scaffold, and the country may have suffered all the miseries which bloodshed and civil war may produce.

“ Gentlemen, whether the project of a Convention, which has for its object the collecting together a power which should

overawe the Legislative Body, but not suspend it, and should extort a Parliamentary Reform—whether this will amount to High Treason, and to the specific High Treason of compassing and imagining the King's death, is a more doubtful question. Thus far is clear.—A force upon the Parliament must be manifestly directed against the King, who is an integral part of it. It must reach the King, or it can have no effect at all.—The laws are enacted in Parliament by the King, together with and by the Lords and Commons in Parliament assembled. A force meditated against his person is, therefore, a force meditated against the King, and seems to fall within the cases described against the King, to force him to alter the measures of his Government. But in that case it does not appear to me that I am warranted by the authorities, to state it to you as clear law, that the raising such a force constitutes the crime of High Treason. What the law is, and what would be the effect of the circumstances of such a force to be employed against the King in person, in the exercise of the highest functions of his Royalty; what will be the effect of this, will be fit to be solemnly considered and determined when the case shall arise.

“ I go on to state to you as clear, that the project of a Convention, having for its sole object a peaceable application to the wisdom of Parliament, by petition for a Parliamentary Reform, and leaving it to Parliament to exercise their own discretion on the subject, cannot of itself be ranked among this class of offences.

“ Gentlemen, you now proceed on these several articles of inquiry. If you find that the parties that shall be accused before you, have been pursuing lawful ends by lawful means, or have been only indiscreet, or, at the worst, if criminal, that they have not been criminal to extent of High Treason, then say, the bills that shall be presented to you are not true bills. But if any of those persons shall appear to you to have engaged in that traitorous and detestible conspiracy already described; or if, without any formal design to go the full length of that conspiracy, they have acted a part to bring about an alteration in the House of Commons, without the authority of Parliament, by an usurped power, and have taken upon themselves the function of Legislation, and conspired to subvert the existing Laws and Constitution, you will then do that which belong to your office to do.

“ In the third view of the case of these persons, if you find them involved and proceeding on a design to collect people together against the legislative authority of the country, for the purpose of overawing the Parliament, but not suspending its functions, and so compelling the King, Lords, and Commons, in Parliament assembled, to enact laws for

holding Annual Parliaments, &c. perhaps it may be admitted, in respect of the extraordinary nature, the dangerous extent, and the very criminal complexion of such a conspiracy, that this case, which I state as new and doubtful, should be put into a judicial course of enquiry, that it may be known whether it does or does not amount to High Treason.

“ Gentlemen, I will not open to you the law of the misprision of Treason, because I am not aware that there are any persons committed for that offence, and because I have no reason therefore to suppose that there will be any prosecutions preferred for that offence. The offence is the concealing of Treason. The punishment is a most severe one I hope the necessity of the times will not stifle the humanity of the times, and compel us to put this law in execution.

“ Gentlemen, I now dismiss you, being confident that your judgment will direct you to those conclusions which may clear innocent men from all suspicion of guilt, bring the guilty to condign punishment, preserve the life of our gracious Sovereign, secure the stability of our Government, and maintain the public peace, in which comprehensive term is included the welfare and happiness of the people, under the protection of the laws and liberties of this kingdom.”

After this charge was delivered, the witnesses, who were to give evidence before the Grand Jury, were sworn in. No fewer than 35 witnesses were sworn to give evidence on one bill.

THE INDICTMENT.

MIDDLESEX to Wit THE JURORS for our Sovereign Lord the King upon their oath present. That Thomas Hardy, late of Westminster, in the County of Middlesex, Shoemaker, John Horn Took, late of Wimbledon in the County of Surry clerk, John Augustus Bonney, late of the parish of Saint Giles in the Fields, in the County of Middlesex, aforesaid gentleman Stewart Kyd, late of London, Esquire; Jeremiah Joyce, late of the parish of Saint Mary-le-Bone, otherwise Marybone, in the County of Middlesex aforesaid gentlemen; Thomas Wardle, late of London, gentleman; Thomas Holcroft, late of the parish of Saint Mary-le-Bone, otherwise Marybone aforesaid in the County of Middlesex, aforesaid gentleman; John Richter, late of Westminster, in the said County of Middlesex, gentlemen; Matthew More, late of Westminster, in the County Middlesex aforesaid, gentleman; John Thelwall, late of Westminster, in the County of Middlesex, aforesaid gentleman; Richard Hodgson, late of Westminster, in the County of Middlesex aforesaid, hatter and John Baxter, late of the

parish of Saint Leonard, Shoreditch, in the County of Middlesex aforesaid, labourer, being subjects of our said Lord the King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil as false traitors against our said Lord the King, their supreme, true, lawful and undoubted Lord; and wholly withdrawing the cordial love and true and due obedience which every true and faithful subject of our said Lord the King should and of right ought to bear towards our said Lord the King; and contriving with all their strength intending traiterously to break and disturb the peace and common tranquility of this kingdom of Great Britain; and stir, move and excite insurrection, rebellion and war against our said Lord the King within this kingdom; and to subvert and alter the legislature, rule and government now duly and happily established in this kingdom; and to depose our said Lord the King from the royal state, title, power and government of this kingdom; and to bring and put our said Lord the King to death on the first day of March in the thirty-third year of the reign of our Severeign Lord the now King, and on divers other days and times as well before as after, at the parish of Saint Giles aforesaid, in the County of Middlesex, aforesaid; maliciously and traitrously with force and arms, &c. did, amongst themselves and together, with divers other traitors whose names are to the said jurors unknown, conspire, compass, imagine and intend to stir up, move and excite insurrection, rebellion and war against our said Lord the King within this kingdom of Great Britain; and to subvert and alter the Legislature, Rule and Government now duly and happily established within this kingdom of Great Britain; and to depose our said Lord the King from the royal state, title, power and government of this kingdom, and to bring and put our said Lord the King to death.

AND TO FULFILL, perfect and bring to effect their most evil and wicked treason and unreasonable compassings and imaginations aforesaid, they the said Thomas Hardy, John Horne Looke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcrott, John Ritcher, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter, as such false traitors as aforesaid, with force and arms on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did meet, conspire, consult and agree among themselves and together, with divers other false traitors, whose names are to the said jurors unknown, to cause and procure a Convention and Meeting of divers subjects of our said

Lord the King, to be assembled and held within this kingdom, with intent, and in order that the persons to be assembled at such Convention and Meeting should and might, wickedly and traiterously without, and in defiance of the authority and against the will of the Parliament of this kingdom, subvert and alter, and cause to be subverted and altered the legislature, rule and government now daily and happily established in this kingdom; and depose, and cause to be deposed our said Lord the King from the royal state, title, power and government thereof.

AND FURTHER TO FULFILL, perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily to assemble such Convention and Meeting as aforesaid, for the traiterous purposes aforesaid, and thereby to accomplish the said purposes, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter, as such salse traitors as aforesaid; together with divers other false traitors, whose names are to the Jurors aforesaid unknown on the said first day of March, in the thirty-third year aforesaid; and on divers other days and times, as well before as after, with force and arms at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did compose and write; and did then and there maliciously and traiterously cause to be composed and written divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings; and did then and there maliciously and traiterously publish, and did then and there maliciously and traiterously cause to be published divers other books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings so respectively composed, written, published, and caused to be composed, written and published, purporting and containing therein, among other things, incitements, encouragements and exhortations to move, seduce and persuade the subjects of our said Lord the King to choose, dispute and send persons as delegates to compose and constitute such Convention and Meeting as aforesaid, to be so holden as aforesaid, for the traiterous purposes aforesaid.

AND FURTHER TO FULFILL, perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid; and in order the more readily and effectually to assemble such Convention and Meeting as aforesaid, for the traiterous purposes aforesaid; and thereby to accomplish the said purposes they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas

Holcroft, John Ritchter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter, as such false traitors as aforesaid, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, with force and arms at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, did meet, consult and deliberate among themselves and together, with divers other false traitors, whose names are to the said Jurors unknown, of and concerning the calling and assembling such Convention and Meeting as aforesaid, for the traitorous purposes aforesaid; and how, when and where such Convention and Meeting should be assembled and held, and by what means the subjects of our said Lord the King should, and might be induced and moved to send persons as delegates to compose and constitute the same.

AND FURTHER TO FULFILL, perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid; and in order the more readily and effectually to assemble such Convention and Meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Ritchter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter, as such false traitors as aforesaid, together with divers other false traitors whose names are to the jurors aforesaid unknown, on the said first day of March, in the thirty-third year aforesaid; and on divers other days and times, as well before as after, with force and arms, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traitorously did consent and agree, that the said Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, one John Lovett, one William Sharpe, and one John Pearson should meet, confer and co-operate among themselves, and, together with divers other false traitors, whose names are to the said jurors unknown, for, and towards the calling and assembling such Convention and Meeting as aforesaid, for the traitorous purposes aforesaid.

AND FURTHER TO FULFILL, perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Ritchter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter as such false traitors as aforesaid;

together with divers other false traitors whose names are to the jurors aforesaid unknown on the first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, with force and arms at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did cause and procure to be made and provided, and did then and there maliciously and traiterously consent and agree to the making and providing of divers arms and offensive weapons; to wit, guns, musquets, pikes and axes, for the purpose of arming divers subjects of said Lord the King, in order, and to the intent, that the same subjects should and might unlawfully, forcibly and traiterously oppose and withstand our said Lord the King in the due and lawful exercise of his royal power and authority, in the execution of the laws and statutes of this realm; and should and might unlawfully, forcibly and traiterously subvert, and alter, and aid, and assist in subverting altering, without, and in defiance of the authority, and against the will of the Parliament of this kingdom, the Legislature, Rule and Government now duly and happily established in this kingdom; and depose, and aid, and assist in deposing our said Lord the King from the royal state, title, power and government of this kingdom.

AND FURTHER TO FULFILL perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, with force and arms on the said first day of March in the thirty-third year aforesaid, and on divers other days and times as well before as after at the parish of St Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did meet, conspire, consult, and agree among themselves and with divers other false traitors whose names are to the said Jurors unknown, to raise, levy, and make Insurrection Rebellion and War, within this kingdom of Great Britain against our said Lord the King.

AND FURTHER TO FULFILL perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardie, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as

after, at the parish of St Giles aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did meet, conspire, consult, and agree among themselves, and together with divers other false traitors whose names are to the said Jurors unknown unlawfully wickedly and traitorously to subvert and alter, and cause to be subverted and altered, the Legislature, Rule and Government now duly and happily established in this kingdom; and to depose and cause to be deposed, our said Lord the King from the royal state, title, power and government of this kingdom.

AND FURTHER TO FULFILL perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to bring about such subversion alteration and deposition as last aforesaid, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Mathew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, together with divers other false traitors, whose name are to the Jurors aforesaid unknown on the said first day of March, in the thirty third year aforesaid, and on divers other days and times, as well before as after, at the parish of St Giles aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did prepare and compose, and did then and there maliciously and traitorously cause to procure to be prepared and composed, divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, and did then and there maliciously and traitorously publish and disperse, and did then and there maliciously and traitorously cause and procure to be published and dispersed, divers other books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, the said several books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, so respectively prepared, composed, published, dispersed, and caused to be prepared, composed published, and dispersed, as last aforesaid; purporting and containing therein, (amongst other things) incitements, encouragements, exhortations, to move, induce, and persuade the subjects of our said Lord the King, to aid and assist in carrying into effect such traitorous subversion, alteration, and deposition as last aforesaid, and also containing therein amongst other things informations, instructions, and directions to the subjects of our said Lord the King how, when and upon what occasions the traitorous purposes last aforesaid should and might be carried into effect.

AND FURTHER TO FULFILL perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter, as such false traitors as aforesaid, together with divers other false traitors, whose names are to the said jurors unknown, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid; with force and arms maliciously and traiterously did procure and provide, and did then and there maliciously and traiterously cause and procure to be provided, and did then and there, maliciously and traiterously consent and agree to the procuring and providing arms and offensive weapons, (to wit) guns, musquets, pikes, and axes; therewith to levy and wage war, insurrection and rebellion against our said Lord the King, within this kingdom, against the duty of the allegiance of them, the said Thomas Hardy; John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, against the peace of our said Lord the now King, his crown and dignity, and against the form or the statute in that case made and provided.

Friday October, 24.

This day at eight in the morning, the Sheriffs, in their carriages, attended by the Under Sheriffs, the City Marshals on horseback, and the Marshals men, together with a strong party of Sheriffs Officers and Constables, proceeded from Guildhall to the Tower, and having stopped at the outer gate, Sheriff Eamer sent a message to the commander of the Guard, desiring his attendance; to whom he produced an order of the Privy Council to deliver into the Sheriff's charge the following state prisoners; Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Rev, Jeremiah Joyce, John Richter, and John Thelwall,

In about half an hour the prisoners were brought out, under the escort of a Captain's guard; and, upon their delivery, the Sheriffs gave a formal receipt to the Lieutenant of the Tower, or his Deputy, for their bodies.

They were placed in three coaches, one of the Sheriff's carriages leading the procession, the prisoners following, and the other Sheriff and his train closing. The Sheriffs officers were on horseback, and had their hangers drawn.

About ten they arrived at Newgate, where the prisoners were safely lodged under the care of Mr. Kirby, the keeper, who conducted them to the state side of the prison, and placed them in seven different rooms, which had been prepared for their reception.

The Lord Mayor and Sheriffs have ordered the different avenues to the Sessions-House to be encircled with strong barricadoes, and a bar to each, with a superscription, containing the names of persons who are to be admitted at that particular avenue.

The officers have a peremptory order, that no others are to be admitted under any pretext whatever.

The seats for the Jury will contain one hundred and eighty-seven. The cushions for them were sent in Friday night by Mr. Philips, and every precaution is taken to preserve a due solemnity upon this awful occasion.

Old Bailey, Saturday, October 25.

The Court being adjourned until this day, for further proceeding on the trial of the different persons committed for High Treason, the following Judges, &c. met the Lord Mayor:—Chief Justice Eyre, President of the Commission; Mr. Justice Grose, Mr. Baron Hotham, Lord Chief Baron, and Mr. Justice Buller—Alderman Pickett, Plomer, Gill, Newman, Anderson, Macauley, and Clark.

The Court being opened, the following prisoners were set to the bar—*Thomas Hardy, John Horne Tooke, John Augustus Bonney, Steward Kyd, Jeremiah Joyce, Thomas Holcroft, John Richter, John Thelwall, and John Baxter.* They were arraigned in the usual form. They all pleaded not guilty.

Mr. Bonney and Mr. Thelwall objected to the form of the indictment, the place of their residence being laid in the indictment at St. Giles's Middlesex, when Mr. Bonney lived at St. Pancras, and Mr. Thelwall within the Duchy of Lancaster, which were neither of them within the parish of St. Giles, but they waved all objections, as they wished their trial to be finished as soon as possible.

Mr. Tooke and Mr. Bonney informed the Court, in a short and concise speech, that they had not the ten days allowed them by the Act of Parliament in cases of Treason, and that they had not an opportunity of seeing their Counsel, who were to have dined with them the day they were removed from the Tower, which was very unexpected, as they were removed to Newgate on the Friday, when they did not expect to be removed until the Saturday.

Mr. Bonney afterwards said, that as his trial could not come on for some time, he would thank the Court to remand him to the Tower: he said *he had been treated there with the utmost humanity by the Governor for twenty two-weeks, and had every liberty which persons in their situation could expect.*

The apartments in Newgate were so close, that he could not invite his Counsel into them; but in the name of them all, he requested they would let them have all possible accommodation in their power. He said Mr. Kirby and his people had used them very well since they had been there.

Chief Justice Eyre said he could not remand them to the Tower, they must apply elsewhere.

Mr. Sheriff Eamer assured the Court, that they should have the best accommodation they could afford them.

Mr. Erskine moved the Court on behalf of the prisoners, that their trials should not come on until Tuesday morning instead of Monday, as the prisoners were not as yet prepared.

Mr. Attorney General said, as it was the prisoners wish, he would consent to it.

The Sheriffs were requested to summon the Jury for Tuesday morning, at seven o'clock, as the Chief Justice did not wish the Jury to attend on Monday, and be sent home again without doing any thing.

Council for the Crown who attended—Mr. Attorney General, Mr. Solicitor General, Mr. Law, Mr. Garrow, and Mr. Knapp.

Counsel for the prisoners—Erskine and Gibbs.

Monday, Oct. 27.

The Court met this day to adjourn to Tuesday, as a mere matter of form.

Tuesday, Oct. 28.

This morning at eight o'clock the court was opened, and Mr. Thomas Hardy put to the bar. The Clerk of the Arrais having proceeded to call over the panel of the Jury, a number of persons were deemed ineligible to serve, on account of not being possessed of freeholds in the County of Middlesex. Thirty-four of the panel were challenged by the prisoner's counsel, but no reason for such challenge was assigned. The following gentlemen were sworn on the Jury, immediately after which the trial commenced.

THOMAS BUCK, Esq. Aston.

THOMAS WOOD, Coal Merchant.

WILLIAM FRASER, Queen Square.

ADAM STAINMETZ, Biscuit Baker.

JOHN CONOP, Distiller.

JOHN MERCER, Meal Man.

THOMAS SAYER, Bow.

RICHARD CARTER, Paddington-street.

NATHANIEL STONARD, Starch Maker.

JOSEPH NICOL, Gent. Farmer.

JOHN CARRINGTON, Esq. Brewer.

JOSEPH AINSLEY, St. George's, Coal Merchant.

The indictment being read, in which were included the charges of Nine overt Acts of Treason: the leading Counsel for the Crown stated the indictments in short; after Mr. Attorney General rose, and stated the great variety of particulars which would be adduced in the course of the evidence. The learned gentleman stated the acts charged against the prisoner at the bar, came most clearly and evidently within the description of the venerable and revered statute of the 25th of Edward III. whereby the compassing and imagining the death of the King or Queen of this realm, is declared to be High Treason. Mr. Attorney General said, that in passing the Habeas Corpus Act, it was found necessary to part with a portion of the liberties of the people, to guard against those liberties being alienated for ever; and the popular and political societies, under a variety of denominations, established in different parts of the kingdom, had pursued a conduct which made it the indispensable duty of the legislature to suspend that act, and framed a law for the suppression of such meetings in different parts of the kingdom, as by their proceedings seemed calculated to throw this country into a state of anarchy, confusion and bloodshed, similar to that prevailing in France. The prisoner had been a very active member of the London Corresponding Society, and the Society for Constitutional Information; and his name was affixed, as would be proved to the Jury, to many Letters, Papers and Resolutions, addressed to different societies in Sheffield, Huddersfield, Manchester, Norwich, Birmingham, &c. and tending to spirit up the people to insurrection and rebellion. The resolutions and exhortations which the prisoner, in conjunction with other persons included in the same indictment, though they were to be separately tried, were manifestly calculated to dispoil the King of his Crown and Dignity, and to supersede the functions of the executive power, and establish a new and unheard-of order of things in civilised society.

The written evidence which the learned gentleman would have to submit to the consideration of the jury would, he was confident to say, be amply convincing to them, that a most daring and dangerous conspiracy had not only been formed, but even brought to a degree of maturity that seemed to portend the most imminent danger to the state. To compass, imagine, or contrive the death of the king, was an act of high treason; and the daring projects that had been entered into by the clubs in different parts of the country had most incontestably that object in view.

The king is bound by the solemn obligation of his coronation oath to govern the nation according to the statutes agreed upon in Parliament; and the personal safety of the King is of so high importance; that his life cannot be endan-

gered, without the safety of the state being put into a precarious situation; and therefore to conspire against the safety of the King, must be construed into treason; for no alteration could be attempted in the system of the government of this country, without endangering the safety of the King.

The prisoner was a member both of the Constitutional Society, and the London Corresponding Society, which the learned gentlemen deemed to be the trading societies instituted ostensibly for procuring a reform in parliamentary representation, but whose object was to introduce a system of policy in this country founded on the example of that instituted in France, whereby that nation had been involved in a state of the most lamentable misery and distress.

Mr. Attorney General read a great number of letters between the several societies in London and those in different parts of the country, commenting upon each, and drawing the general conclusion; that they were written in pursuance of a carefully digested and artfully prosecuted plan, not for effecting a reform in, but for effecting a total alteration in the system of the government of this country. It was not meant to apply to parliament for effecting a reform in the representative body, for it was declared in the letters, resolutions, and other papers read to the jury, and which would hereafter come before them in the former evidence, that it would be absurd and nugatory to apply to parliament for redress of the supposed grievances; nay the competency even of Parliament was denied; and the people engaged in the conspiracies to bring about a total change in the management of public affairs had that it was in the co-operation of their own force and exertions, that they were to depend for the attainment of the object of their wishes.

In the laws respecting treason, there is nothing ambiguous and uncertain; but the whole was laid down so conspicuous, that no misconceptions could easily take place; these the learned gentlemen wished to be understood as distinctly, disavowing the idea of imputing to the prisoner constructive treason, since the nature of the offence specified in the 25 of Edward III. and the charge alledged in the indictment were perfectly coincident, and were precisely specified in both.

To conspire to imprison the King, or by threats, or other violent means to endeavour to compel him by force to change his Counsellors, is an overt act of treason, as that may endanger the life of the King, who being bound by his coronation oath, to govern in conformity with the statutes agreed on in parliament, must, even at the hazard of life, and every thing else most dear to him, resist whatever overtures may be made to act otherwise than in exact observance of the statutes of Parliament.

The learned gentleman read a number of letters, resolutions, &c. signed by the prisoner, and others, addressed to him in capacity of Secretary of the London Corresponding Society, containing the highest commendations of the political principles of the writings of Payne; and recommending the general adoption of those principles.

Conspiracy to imprison or depose the King, without any intention imputed as to taking his life, is an overt act of treason; for as judge Hale says, that is to despoil him of his kingly government, and consequently to depose him from his royal title, rule and dignity. The learned gentleman stated, that the prisoners had been guilty of conspiracy to depose the King by the means pursued for forming a Convention, for superseding the civil and legislative constituted authorities, and by the exertion of the physical force of man, to assume and exercise all the powers of Government; and to conspire to depose the King, was an overt act of treason, as that act necessarily involved the King's life in danger.

Universal suffrage an annual representation, was the object that the several societies had in view; but no intimation was given in any of the accounts or minutes of their proceedings, that to attain the end of a reform in the representation, they meant to apply to parliament: on the contrary, it was declared that an appeal to the constituted powers of the state would necessary prove ineffectual, and therefore they must have recourse to the power residing in themselves.

Having mentioned every species of written evidence that would be produced to the jury; the learned gentleman said, that oral testimony would be given of Mr. Hardy and the other persons implicated in the indictment, (which had been read) having entered into a conspiracy for providing themselves and the members of the different societies corresponding and co-operating with them; and it would be clearly proved that these pikes, guns, and other weapons were intended to be made use of to oppose any civil or military power that might attempt to disperse them when assembled in what they affected to call a Convention of the People. Among the instruments thus prepared, he said, was one species but little known in this country, and not at all of late years. These were called night Cats, being iron wrought into such a form as laying in whatever position points would be presented in every direction, and these points penetrating the hoofs of the horses would prevent the approach of cavalry. The learned gentleman took a view of the proceedings of the meetings at Chalk Farm, at several other places in this country and in Edinburgh, and inferred from the whole, that a treasonable combination for affecting the destruction of the King, and a total overthrow of the system of the British Constitution, and erecting on the ruins thereof a species of horrid and sanguin-

ary Republicanism, similar to that prevailing in France. If the charges laid in the indictment did not amount to that kind of high treason mentioned in the act of King Edward, and specified in the indictment, he would join in the prayer made in saying " *God send the prisoner a good deliverance.* The learned advocate concluded after having been upon his legs just eight hours and fifty minutes. The court then adjourned for one hour.

The Court being resumed,

Thomas M'Lean was the first witness produced on the part of the Crown, and one of the King's Messengers, swore, that on the 12th of May, 1794, he went to the house of the prisoner, Hardy, and took into his possession the following letter. The hand-writing of the prisoner to which letter was proved by a witness named *Alexander Grant*, who had seen him write; *viz.*

A letter dated March 27, 1794, signed by the prisoner as Secretary to the London Corresponding Society, to the Society in Scotland for Constitutional Information; in which a full and complete Representation of Parliament is declared to be the wish of the Society, to be obtained in a peaceable manner.

John Gurney, the next witness, a King's Messenger, proved also the seizure of some papers in Hardy's possession, which he marked in order to distinguish them; the hand-writing to which was also proved by the said Mr. *Grant*; they were as follows:

A letter dated April 4, 1794, and various other letters from the Society, signed by Hardy, as Secretary, and addressed to various Societies.

All of them invariably stating their object to be a Parliamentary Reform, and recommending to each other unanimity and perseverance in their endeavours to obtain it, upon the plan, as stated in some, of Mr. Pitt, and the Duke of Richmond, and in others, without making any reference, on that of Universal Suffrage. In a resolution passed by the London Corresponding Society, and proved, more particularly after stating the many grievances they supposed to exist, and the incomplete representation of the people, all of whom should possess that right, who were not incapacitated by want of reason, or the commission of some crime, and instancing the case of Birmingham, which contained 40,000 inhabitants, Sheffield 30,000, Leeds 20,000, Wolverhampton and other places unrepresented; they think proper to adopt resolutions of establishing themselves into a Society, and make various regulations for increasing the number and correspondence, and promoting the interest of the London Corresponding Society. Several of the letters sent by the Society are on the subject of an Address to the French Con-

vention, on the glorious struggle made by them, and offering to form correspondence and connection with them, but there are many of them from the different Societies in answer, which do not accord with the measure. These letters also unfolded several writings, generally avowing the principles of the London Corresponding, and of the other Societies, to be those of good order; but in many of them there are very violent and strong assertions respecting the state of the House of Commons, the present war, and every grievance which can possibly be conjectured, and of the absolute necessity of the utmost exertions to prevent a continuance of what is said to be slavery. One of the most violent of them was read and proved by the witness, *Grant*, originally one of the members of the Society, who swore that he received orders to print 500 copies, which were delivered by his warehouseman to some person, for which he was paid by Hardy, who afterwards informed him that Carter, the bill-sticker, was in custody, and as he understood for the offence of sticking them up in the metropolis; and that he refused to comply with a request of printing a further quantity of them.

Mr. W. Woodfall was called to prove the hand-writing of *Mr. Tooke*. On one paper, the original plan of the London Corresponding Society, he said that the interlineations were of that gentleman's writing, but not the other part of the paper.

At about half past eleven o'clock, *Mr. Erskine* informed the Court, that in his opinion it was absolutely necessary for them to come to some determination respecting the adjournment of the trial, as the Court, the Jury, and the Counsel, who were all but men, could not possibly sit up till the whole mass of evidence was gone through on the part of the prosecution; that he should strongly recommend it to his client to agree to the Jury being dismissed, and suffered to go to their respective homes and families, on their pledging their word that they would not suffer themselves to be approached by any person breathing on the subject of the trial; that if he could not put such confidence in them, he was convinced he should have little weight with them in addressing them upon their *oaths*.

The Lord President said, that the law was clear on the subject; *v. z.* That no Jurymen in any criminal case, after evidence had been given on an issue, could possibly be separated till after they had pronounced their verdict. He mentioned a case of a misdemeanor reported in the year books, 14th of Henry VII. where the Jury appear to have adjourned for a whole day, and it is not easy to conceive that they were not then separated, though that does not clearly appear. He mentioned also a case where, from necessity, on account of a violent tempest, the Jury were separated.—After comment-

ing on the present case, he, upon the whole, thought that there was such a necessity existed in it, as would justify him in adjourning; but the difficulty was for what time, and in what manner the Jury should be disposed of. He considered the Court to stand in a critical situation; and though at first, he seemed to wish to accommodate the Jury, by suffering them to take advantage of Mr. Erskine's proposal, yet he afterwards saw difficulties in the way which had better be avoided, particularly as the Sheriff had provided beds and accommodations for them. He told the Jury, who said they wished to be permitted to go home, that he was very sorry for it, but they must submit to it.

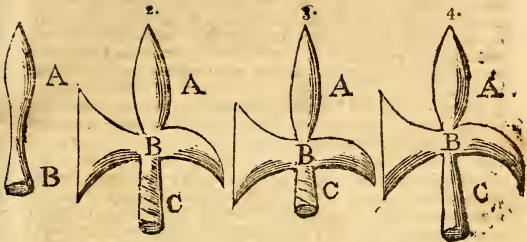
The Chief Baron, with that humanity for which he is so distinguished, observed, that it was more particularly necessary for the Prisoner that an adjournment should take place, in as much as the Jury would be unable to pay that attention to the evidence they had to the speech of the Attorney General, from their fatigue, and that it would consequently make a deep impression on them.

Mr. Baron Hotham was most decidedly against the Jury being suffered to separate, as he foresaw many inconveniencies that might attend it, and there was no precedent to warrant such a measure.

The Court being of the above opinion, they adjourned at 12 o'clock exactly, to 8 o'clock in the morning, and the Lord President ordered the Sheriff to let them have every accommodation he could afford.

Mr. Erskine, at the rising of the Court, said that the whole of the papers found in his client's possession having been taken from him, and he not having been able to procure access to them, it would be impossible for him, after such a mass of evidence as they contained was crowded upon him, should his reply be required at a time of the day convenient to them to continue the trial, with justice to his client, to be able to answer the prosecution: and therefore, hoped, in that case, for the indulgence of the Court, by an adjournment for an hour or two only, to enable him to consider it; he gave this notice to prevent any surprize. The Lord President informed him that the Court would certainly grant his Client every reasonable indulgence.

No. II. will be published at 12 o'Clock
at Noon Tomorrow.



Wednesday 29.

The Court was opened at a quarter past eight o'clock, and Mr. Hardy being put to the bar, a letter written to him, by Mr. Skirving at Edinburgh read; this was to urge that no time should be lost in forwarding all possible measures for the attainment of the great and important object the co-operating Societies, in the correspondence with each other had in view; and in this letter it was stated, that if the present opportunity was not taken advantage of, such another might not occur. Mr. Gurnel proved that he found this letter in the possession of the prisoner.

Mr. Scotten being sworn, he deposed, that a warrant being issued to apprehend Margarat and Skirving, a box was found belonging to the former in which among other papers, were several letters written to him by the prisoner.

The general tendency of these letters was to encourage the members of the Societies in Scotland to persevere in their endeavours to increase their members, to disseminate the principles cherished by the different Societies among different classes of the community.

Mr. Grant believed these letters to be the hand writing of the prisoner.

Another letter was produced and read, stating instructions from the London Corresponding Society, under the signature of Mr. Hardy, in his capacity of Secretary to the Society, for the conduct of the delegates from the Corresponding Society, namely Margarat and Gerrisd, in pursuing the object of their mission at the approaching assembly of the delegates to compose the British Convention at Edinburgh. In this letter they are exhorted not to relax in their endeavours till a thorough and radical parliamentary reform shall be obtained.

A letter of October 5, 1793, from Skirving to Hardy, desires a delegate may be sent to Edinburgh, qualified to forward the intentions of the convention. It mentions Mr. Muir being in good health and spirits, urges a speedy answer, and wishing destruction to all human butchers, concludes with saying the next meeting is adjourned to the 29th of the same month.

A number of other letters were proved to have passed between Hardy and the delegates from England, in one of which the former includes a draft for twelve guineas, for the Convention.

A letter from the prisoner, of November 22, urges the delegates to remain at their posts, expresses hopes of liberal patronage from the friends of freedom, and encloses another draft for twelve guineas, and says some copies of the Rights of Englishmen shall be sent, together with some other tracts — Mr. Grant proved the signature of this to be Hardy's.

A letter from Gerald to Hardy, says, that the return of himself and his colleague Margorat, to London, would at that time be attended with the worst consequences, as all classes look anxiously up to them for aiding in the great work of obtaining universal suffrage and annual representation. It complains of the unavoidable expences attending their mission; adding, that they are employed eighteen out of the twenty-four hours in public business, so that there is not time to write to London more than once a week, and that cannot be on stated days. Among other publications, it is desired some of the Letters to Dundas may be sent.

It being proposed by Mr. Garrow, one of the counsel for the Crown, to read an account of the proceedings of the British Convention at Edinburgh, Mr. Erskine rose, and expressed his opinion that the proceedings of that convention must be irrelevant to the case of the prisoner, and submitted to the judgment of the court, whether its time ought to be consumed in hearing a narrative of these transactions.

The Chief Baron deemed that there was room for letting in the kind of evidence alluded to by the learned advocate in behalf of the prisoner; but how that kind of evidence would apply was an alter consideration.

The narrative of the proceedings, as entered on the minutes, were then read, during fourteen days sitting of the British Convention at Edinburgh, with lists of the newly admitted members, abstracts of correspondence with other societies. From these minutes it appeared, that five hundred constables had been ordered to disperse the meeting, which they did not effect without some opposition. Margorat declared himself president of the meeting, and was forced to quit the chair by the civil power.

After this, an adjournment was made to another place,

where it was stated that if spirited exertions were made, a majority of all the adults in the kingdom might be gained to the cause espoused by the co-operating societies, after which acquisition no denial could be given to a demand for a redress of grievances, and the friends would be enabled successfully to oppose all oppressive measures and give freedom to mankind.

It was stated, that at the meetings of the convention a deplorable picture was drawn of the miserable condition of Ireland, the Convention Bill passed in which country was severely reprobated; and it was said, that if Liberty was not cried up in the streets; it animated the hearts of the people of that country, where, however, the law had restrained the people from meeting in a convention.

Entries were read from the minutes of various sums subscribed in the convention; at one time four pounds five shillings and eight pence; at a second, one pound nineteen shillings and two pence, with an item of one shilling more; at another, one pound nine shillings and two pence farthing; and a member having presented five shillings on the part of a person whose name he was not authorized to make known, *honourable mention* of this donation was ordered. A Committee of Finance was established, and a book for containing entries of all matters of finance prepared.

Publications were agreed to be circulated for enlightening the minds of mankind, the price of each not to exceed one half-penny; and measures were resolved to be pursued for communicating information to, and in improving the understanding of the Highlanders. It was also stated, that a Re-forming Society was established in the neighbourhood of the Grampian hills, the number of which were fast increasing.

The publications and a bulletin of the proceedings of the convention was proposed; two members were admitted to the *honours of the sitting*; it was customary to move the *order of the day*, to *move and adjourn* the house, &c. and the year was signified under the term of the *First year of the Convention*. It also appeared, that a correspondence had been carried on between the popular societies in Scotland and England, where it was mentioned that a committee was to be formed, for watching the proceedings of Parliament, and upon intelligence being communicated of a design to suspend the Habeas Corpus act, to pass a Convention bill, to admit the landing of foreign troops, or upon any other act of innovation, or any such calamitous circumstance, it was determined that either of these cases occurring was to be considered as a signal for a general assembly of the delegates of the Convention, the members of which were to hold themselves in readiness to assemble on an hours warning. This last resolution was passed in a remarkable man-

ner, and in a way that may be described as, at least having the appearance of solemnity; for when the question was decided, it was done while all the members were uncovered and joining hands, and pronouncing words expressive of their determination to exert their utmost efforts to secure the possession of their unalienable and unrescriptible rights—the Rights of Man.

The proceedings of the British Convention in Edinburgh, having been gone through, a letter of December 8, 1793, from Margaret to Hardy was produced, and proved to have been found in possession of the latter. This stated, that the writer and his colleague, (meaning the other delegate from England to the British Convention at Edinburgh.) were placed in the front of the battle; yet the dangers they subjected themselves to, would be of no avail if they were not supplied with remittance of money. A caution was given as to the way of communicating an answer, as the conveyance by the channel of the post might subject the letter to be intercepted; and to prevent an accident of the kind in this case, the present letter was to be sent in a packet with various other papers.

Another letter, from Margaret to Hardy, solicits a remittance of money to enable his colleague in the deputation to pay the expences of his return to England, and mentions the institution of a political association, near the Grampian Hills.

A letter of January 11th, to a society at Norwich, says, the enemies of reform are cutting each others throats; and this is from Hardy, who encloses in it a receipt for making beer, which will, he says, diminish the revenue of this country, as all persons brewing their own beer, are exempted from the payment of duty. It is also said, in this letter, that the present is a time for the friends of liberty to do some things worthy of men. This letter was proved to be written by Mr. Hardy.

The next witness was James Davison. Being examined by Mr. Garrow, this witness stated, that he was by profession a printer, and had been a member of the London Corresponding Society. Mr. Garrow stated, that he now meant to bring evidence that a paper he had in his hand though it was printed by the witness Davison, in pursuance of the orders of Thelwall, yet that the prisoner at the bar was actually privy to and concerned in procuring such paper to be printed and published, and therefore the production of this printed paper, as a matter of evidence would go to effect the prisoner, inasmuch as, although Thelwall gave the express order for the printing the paper; the contents thereof, combined with the testimony of the witness Davison, would show that the prisoner was a party to the treasonable conspiracy, for the bringing of which into full maturity and effect, the paper now in question had been printed and dispersed.

Mr. Erskine opposed the production of this paper, insisting that it had no application to the supposed offence imputed to his client. Did the paper even contain treasonable expressions, which however, he was sure it did not, still it would not operate towards the conviction of the unfortunate person at the bar, as it had been stated by his learned friend, that it was printed by the order of Thelwall, and not by that of Hardy, who was to be presumed ignorant of its contents; but it might have an effect injurious to that innocent man (for innocent he had a right to call him, till a Jury had pronounced him to the contrary) by establishing a rule of receiving evidence that might operate to his disadvantage in a subsequent stage of the important investigation now occupying the attention of the Court.

After a number of observations from the Court, and a spirited contention among the Counsel, the paper was ordered to be read, and the examination of Davison proceeded.

The witness received the manuscript from Mr. Thelwall, with orders to print two thousand copies; having printed two hundred he carried that number to the Globe Tavern, and meeting Mr. Hardy on the stairs of that house, he (Hardy) desired the witness to take the papers home again, and return to the Tavern to Dinner, this being the day of the Anniversary meeting, from whence a messenger was, in the course of the day, dispatched for some of the copies, which were accordingly brought to the Tavern. He staid there till about ten o'clock at night. He printed about six thousand of these papers at different times, and occasionally delivered them when applied for to the members of the Society, making the Society at large debtors for the whole.

Question from Mr. Garrow. Do you know Mr. Martin?

Ans. I have some times seen him.

Mr. Garrow. Who was the chairman at the anniversary dinner meeting of the London Corresponding Society, at the Globe Tavern in January, 1794.

Ans. Mr. Martin was chairman.

Mr. Garrow. Have you ever held conversation with Mr. Martin?

Ans. Yes; I went to his house respecting the paper which Mr. Thelwall had directed me to print, and observed to him that I thought there were some *hard words* in the resolutions and toasts; upon which he said that the whole was perfectly constitutional, and would be attended with no sort of danger. This satisfied me. (Richard Williams proved the hand-writing of Mr. Thelwall.)

Mr. Garrow contended that Thelwall acted in this instance as agent to the society, and that therefore Hardy was a party to this act, as in matters of conspiracy of treason, the act of

one is, in the construction of the legislature, the act of all the parties concerned.

Mr. Erskine and *Mr. Gibbs* maintained a contrary doctrine, insisting that *Thelwall* alone, and not *Hardy* was responsible for the contents of the paper in question.

Here follows a copy of what was printed by the witness *Davison*, by the direction of *Thelwall*,

At a General Meeting of the London Corresponding Society, held at the Globe Tavern, Strand, January, 1794, Citizen John Martin in the Chair, the following Address to the People of Great Britain and Ireland was read and agreed to.

CITIZENS,

We find the nation involved in a war, by which, in the course of ONE campaign, immense numbers of our countrymen have been slaughtered; a vast expence has been incurred, our trade, commerce, and manufactures, are almost destroyed, and many of our manufacturers and artists are ruined, and their families starving.

To add to our affliction, we have reason to expect, that other taxes will be soon added to the intolerable load of imposts and impositions with which we are already overwhelmed; for the purpose of defraying the expences which have been incurred, in a fruitless crusade, to re-establish the odious despotism of France.

When we contemplate the principles of this war, we confess ourselves to be unable to approve it, as a measure, either of justice or discretion;—and if we are to form our calculation of the result, from what has already passed, we can only look forward to defeat and the eternal disgrace of the British name.

While we are thus engaged in an expensive and ruinous foreign war, our state at home is not less deplorable.

We are every day told, by those persons who are interested in supporting the *corruption* list, and an innumerable host of *sinecure* placemen, that the constitution of England is the perfection of human wisdom; that our laws (we should rather say, THEIR laws) are the perfection of justice; and that *their* administration of those laws is so impartial and so ready, as to afford an equal remedy, both to the rich and to the poor; by means of which, we are said to be placed in a state of absolute freedom, and that our rights and liberties are so well secured to us as to render all invasion of them impossible.

When we ask, how we enjoy these transcendent privileges, we are referred to *MAGNA CHARTA*, and the *BILL of RIGHTS*; and the glorious *REVOLUTION*, in the year 1688, is held out to us, as the bulwark of British liberty.

CITIZENS,

We have referred to *Magna Charta*, to the *Bill of Rights*, and to the *Revolution*, and we certainly do find, that, of the venerable constitution of our ancestors, hardly a vestige remains.

The only chapters of the charter, which are now in legal existence, are the 14th and 19th.

The important provision of the 84th chapter runs thus :

A freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great fault after the greatness thereof, saving to him his contenment; and a merchant likewise, saving to him his merchandize; and any other's villain than ours shall be amerced, saving to him his wainage; and none of the said ameracements shall be assesed, but by the oath of honest and lawful men of the vicinage.

But by the usurped power of the judges, in assessing fines (and what fines!) in the cases of misdemeanour, this glorious right of the subject, of having these fines assesed by the jury (the only possible protection from slavery and the vilest of oppression) is unjustly and infamously ravished from us.

The provision of the 29th chapter runs thus :

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free custom, or be out-lawed, or exiled, or any otherwise destroyed, nor we will not pass upon him, nor condemn him, but by the lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny, or defer to any man, either justice or right.

The various methods now in constant practice, by which the benefits of this provision are totally defeated and destroyed, might induce us to suppose, that the GREAT CHARTER has been repealed; if we did not assuredly know, that it is the fundamental basis of our constitution; which even the real representatives of the people (much less the miserable nominees of HELSTONE and OLD SARUM) have not the right, nor (as we trust it will be found by experience) the POWER to repeal. Yet what do we find in practice? Unconstitutional and illegal INFORMATIONS EX OFFICIO, that is, the arbitrary will of the king's attorney-general usurping the office of the ACCUSING jury; and the interested oath of a vile common informer, with the judgment of as vile a common trading or pensioned justice, substituted in the room of our birth-right, an impartial trial by our country.

Add to this, that the exorbitant expence of judicial proceedings, the novel practice of arbitrarily and repeatedly annulling the verdicts of juries, and the dilatory practice of the courts, most openly and shamefully contradict the clause which forbids the denial, the delay, and the sale of justice,

A man accused of **FELONY** (for which, by the common law of England, his life and goods are forfeited) may be bailed, on finding two sureties for forty pounds each: but, upon a charge of **MISDEMEANOR** by *words* only, bail to the amount of **ONE THOUSAND POUNDS** has been demanded.

Upon conviction also, for such misdemeanor, enormous fines, long and cruel imprisonments, unknown to our ancient laws, and unsanctioned by any new statutes, have of late (and but of late) been too frequently and too oppressively inflicted. And all this, although by this bill of rights it is declared, that "excessive bail shall not be demanded, nor cruel, and unusual punishments inflicted."

If we look to **IRELAND**, we find that acknowledged privilege of the people, to meet for the support and protection of their rights and liberties, is attempted, by terror, to be taken away by a late infamous act of parliament; whilst titles of honour—no, but of dishonour—are lavished, and new sources of corruption opened, to gratify the greedy prostitution of those, who are the instruments of this oppression.

In **SCOTLAND**, the wicked hand of power has been impudently exerted, without even the wretched formality of an act of parliament. Magistrates have forcibly intruded into the peaceful and lawful meetings of freemen, and, by force, (not only without law, but against law) have, under colour of magisterial office, interrupted their deliberations, and prevented their association.

The wisdom and good conduct of the **BRITISH CONVENTION**, at Edinburgh, has been such, as to defy their bitterest enemies to name the law which they have broken: notwithstanding which their papers have been seized, and made use of as evidence against them, and many virtuous and meritorious individuals have been, as cruelly as unjustly, for their virtuous actions, disgraced and destroyed by infamous and illegal sentences of transportation. And these unjust and wicked judgments have been executed with a rancour and malignity never before known in this land; our respectable and beloved fellow-citizens have been cast fettered into dungeons, amongst felons, in the Hulks, to which they were not sentenced.

C I T I Z E N S :

We all approve the sentiments, and are daily repeating the words, for which these our respectable and valuable brethren are thus unjustly and inhumanly suffering. We, too, associate in order to obtain a fair, free, and full representation of the people, in a house of real national representatives. Are we also willing to be treated as felons, for claiming this our inherent right, which we are determined never to forego

but with our lives, and which none but thieves and traitor can wish to withhold from us: Consider, it is one and the same corrupt and corrupting influence, which, at this time, domineers in Ireland, Scotland, and England. Can you believe, that those who send virtuous Irishmen and Scotchmen fettered, with felons, to Botany Bay, do not meditate, and will not attempt, to seize the first moment to send us after them? Or, if we had not just cause to apprehend the same inhuman treatment; if, instead of the most imminent danger, we were in perfect safety from it, should we not disdain to enjoy any liberty or privilege whatever, in which our honest Irish and Scotch brethren did not equally and as fully participate with us? Their case, then, and ours is the same; and it is both our duty and interest to stand fast together. The Irish parliament, and the Scotch judges, actuated by the same English influence, have brought us directly to the point. There is no farther step beyond that which they have taken. We are at issue. We must now choose at once either liberty or slavery for ourselves and our posterity. Will you wait till BARRACKS are erected in every village, and till subsidized Hessians and Hanoverians are upon us?

You may ask, perhaps, by what means shall we seek redress?

We answer, that men in a state of civilized society are bound to seek redress of their grievances from the laws, as long as any redress can be obtained by the laws. But our common master, whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors.

THERE IS NO REDRESS FOR A NATION CIRCUMSTANCED AS WE ARE, BUT IN A FAIR, FREE, AND FULL REPRESENTATION OF THE PEOPLE.

RESOLVED, That during the ensuing session of parliament, the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament, and of the administration of the government of this country: And that upon the first introduction of any bill, or motion, inimical to the liberties of the people, such as, for **LANDING FOREIGN TROOPS IN GREAT BRITAIN OR IRELAND,** for suspending the **HABEAS CORPUS ACT,** proclaiming **MARTIAL LAW,** OR FOR **PREVENTING THE PEOPLE FROM MEETING IN SOCIETIES** for **CONSTITUTIONAL INFORMATION,** or any **OTHER INNOVATION** of a similar nature, that, on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the

secretaries of the different societies affiliated and corresponding with this society, forthwith to call a GENERAL CONVENTION of the PEOPLE, to be held at such a place, and in such manner, as shall be specified in the summons, for the purpose of taking such measures into their consideration.

Resolved, That the preceding address and resolution be signed by the chairman, and printed and published.

J. MARTIN, Chairman.

T. HARDY, Secretary.

COMMITTEE ROOM, January 23. 1794.

RESOLVED UNANIMOUSLY,

That a hundred thousand copies of the address to the people of Great Britain and Ireland, voted at the general meeting, be printed and distributed by the society,

Resolved Unanimously, That the following toasts, drank at the anniversary dinner of the society, be printed at the end of the address :

I. THE RIGHTS OF MAN; and may Britons never want spirit to assert them.

II. *The British Convention*, lately held at Edinburgh; and success to the important object it had in view.

III. *Citizen William Skirvin*, charged by the sentence of the court of judicary, with the honour of being the cause of calling that convention.

IV. *The London Corresponding Society*, and other patriotic societies of Great Britain and Ireland.

V. *Citizen Maurice Margarot*, the condemned delegate of this society; and may his *manly and patriotic* conduct be rewarded by the attachment of the people.

Citizen Gerrald then arose and in a stream of inspiring eloquence, pronounced the just eulogium of this truly valuable citizen, so emphatically called by *Citizen Ritchison* (one of the witnesses on his trial) the SECOND SIDNEY. He concluded with wishing we might rather *die the last of British freemen* than *live the first of slaves*.

VI. *Citizen Joseph Gerrald*, the other delegate of this society, now under prosecution; and may his concluding sentiment be engraved on every British heart.

VII. The transactions at *Toulon*. May Britons remember them as they ought, and profit by *dear-bought experience*.

VIII. *Citizen Hamilton Rowan*, and the other *true patriots of Ireland*; and may the authors of the *Constitutional-bill* find that they have committed a *bliss*.

IX. *Citizens Muir and Palmer*—May their sentence be speedily reversed, and *Botany-Bay* be peopled with a colony of *real criminals*.

X. Success to the arms of *freedom* against whomsoever directed; and confusion to the *despots* with whomsoever al-

XI. All that is good in every constitution : and may we never be superstitious enough to reverence in any that which is good for nothing.

XII. Citizen Thomas Paine—May his virtues rise superior to calumny and suspicion, and his name still be dear to Britons.

XIII. Lord Loughborough, the Earl of Moira, Sir Gilbert Elliot, and the other apostates from liberty ; and may they enjoy the profits of their apostacy so long as they live.

XIV. A speedy and honourable peace with the brave republic of France.

XV. The starving manufactures and neglected peasantry of Great Britain and Ireland.

XVI. Citizen John Frost, and a speedy restoration of that health which he lost in the dungeons of Newgate.

XVII. The virtuous and spirited citizens, now in confinement for matters of opinion ; and may we shew them, by our conduct, that they are not forgotten.

Mr. Garrow then rose, and informed the Court, that he had a letter to produce, which he conceived would strongly operate towards fixing the charge of a Treasonable Conspiracy upon the prisoner, as it would prove that the writer of this letter was engaged with him in the pursuit of those overt acts which manifestly tended to produce that most horrid catastrophe, which the members of the co operating Societies had in view. This was a letter written by Mr. Martin to Margarot, then a prisoner in the Tolbooth in Edinburgh, giving him an account of the proceedings of the anniversary meeting at the Globe Tavern ; and in this letter were contained many gross representations, tending to bring the person and authority of the King into contempt ; and this, though of a subordinate class, was a species of evidence to prove the general design and concert to depose his Majesty, destroy all the constituted authorities, and change the present happy form of the British Constitution into a Republican State.

Mr. Erskine objected to this letter being read, saying, that from what he collected from Mr. Attorney General's opening yesterday, he conceived this to be a private letter from Martin to Margarot, of the existence of which, it was not to be presumed, the prisoner had any knowledge ; and further, it did not appear that the letter had ever reached the hands of the person to whom it purported to be addressed, or that it was any other than an unpublished manuscript of Martin's. It had been stated, that this letter mentioned the King having met his Parliament, which, he must take the privilege to say, was the legal mode of expression. This letter contained a flippant expression about a woman having insulted his Majesty in the Park, by throwing a patten against his carriage window, on his return from the Parliament House ; but from the narration of so paltry an anecdote, meant to be commu-

icated from one private person to another, it was not to be inferred that any kind of criminality attached upon the prisoner. He could not but lament, that so much of the precious time of the Court had been consumed in hearing the contents of a multiplicity of letters, which had no analogy to the important business under their Lordships consideration. The second day of this important trial was already far advanced, and very little progress had yet been made. Should he, in his turn, be permitted to read all the private letters that had been written on all the subjects in any wise connected with all former State Trials? He must enter his solemn protest against the admission of such evidence.

Mr. Gibbs said, that the observation of the Court respecting another letter, was unquestionably just; for the Court had said that conversation either by writing or by words, during the existence of tumults, might have the effect of keeping up the spirit of discord, and such interference implied criminality, whether the parties were or were not personally engaged in tumultuous proceedings—but this case was widely different.

Mr. Erskine said, that admitting the absurdity, rashness, folly, or even the illegality of the phraseology of *Mr. Martin's* letter, still no part of it could apply to the case of the prisoner, who stood charged on the record with compassing and imagining the death of the King; and he was persuaded the Court would not suffer the rules of evidence to be stretched so far as to permit the production of a letter towards the proof of such atrociously wicked compassing and imagining, when it was not even pretended that the prisoner knew of such letter being written.

The Solicitor General said, the letter was of the nature of a conversation between two persons engaged in a conspiracy, and therefore it would tend to shew the general and ultimate object of their treasonable confederacy. The learned gentleman instanced the cases of Lords Stafford and Lovatt, in both of which letters of a similar kind had been admitted; and on this head he quoted the words of the then Attorney General; adding, that nothing could tend more satisfactory to explain the object to be effectuated by persons engaged in a conspiracy than the development of their private and confidential communications.

The Lord President said, that as no proof had been given, that *Mr. Martin's* letter having been transmitted to *Margaret*, it was not, in his idea, to be understood as tantamount to a conversation between the parties, even supposing them proved guilty of a conspiracy. The learned judge judged the letter inadmissible; *Mr. Sarjeant Adair* thought a part of the letter would not be proper to send to the consideration of the jury.

Mr. Erskine said, *Mr. Garrow* in explaining the nature of

the contents of the letter, had done it with great fairness and liberality, suppressing those passages which he (Mr. Erskine) deemed it improper to bring forward—but then another counsel for the Crown rises, and reads those very lines, and those alone which ought to be kept back—and then my lords you may ineffectually admonish the jury to throw out of their consideration these passages; for however uprightly men may mean, it is not possible for them to discharge and expunge from their minds impressions that have once deeply impressed them.

The other judges not concurring in opinion with the Lord President as to the inadmissibility of the letter, it was of course received in evidence.

The next letter produced was one from the Sheffield Society addressed to Hardy, but found on Thelwall. Mr. Erskine opposed the reading of this letter, urging that though addressed to him, it had no further relation to his client, who had not been accustomed to hold correspondence with the Society by whom it was written.

Mr. Garrow said, that Thelwall acted in capacity of agent to the London Corresponding Society, and co-operated with Hardy in transacting its concerns; and the superscription indicated he was informed of the subject of the letter.

The Bench concurring in the sentiments of Mr. Garrow, the letter was read; and the purport of it was, that notwithstanding the obstructions the society had to contend with, an accession of new members was obtained at every meeting, and it was the determination of the Society to persevere in their endeavours till they should obtain a full and radical reform.

A letter addressed to Hardy from Maurice Margarot, signed with the initials of his name, then confined in the Talbooth Edinburgh, was produced, Mr. Gurnell, one of the king's messengers, who proved that he found it upon the person of the prisoner. The writer of this letter desires if Hardy should publish the trial of the writer, that he would prefix to it an engraving of his person, and refers to apply to Mrs. Margarot for a miniature painting, to enable the engraver to give a likeness. He acknowledges the receipt of a 10l: note from Hardy; says he is now more strictly confined than had before been customary, an additional padlock being put on his door, and the key of it carried every evening to the magistrate. He says that people of property no longer disdain to sit cordially down with honest mechanics in their leather aprons; and as the rich are forming themselves into armed associations, he sees no reason why the poor should not do the same; and asks if the mob would not be better for a little bleeding.

A letter from John Lawrance, secretary to the Bristol So-

cjety for Constitutional Information, and addressed to the prisoner, was read, where he says that Hardy's Second Epistle to the Bristol Society, had vivified the patriotism of the members, and animated them vigorously to persevere in the *God-like* cause in which they were engaged.

A number of circular letter from the London Corresponding Society, and with Mr. Hardy's signature, were now produced; and Mr. Lawzun and Mr. Gurnell, two of the King's Messengers, proved seizing the same in the prisoner's house.

The object of this letter appeared to be to encourage the members of the different societies strenuously to go on in the career which they had undertaken, and it says that men who were capable of being deterred by prosecutions and menaces were unworthy to enjoy the blessings of liberty. It was also said in this letter that an important and critical period was arrived; and as a convention bill was about to be passed, it became their duty to oppose it.

A letter written by Hardy, to one of his friends, was read, where he gives an account of having visited Margatot on board the ship in which he was to be transported; of his being in good health and spirits, with the conciousness of having done no more than his duty, and the consolation of knowing his suffering were not produced by any bad conduct. He asks the person to whom it is addressed, what he thinks of a Con-
tion?

A letter from a member of a society, at Newcastle upon Tyne, was read, where the writer says, his present application is in consequence of seeing Hardy's name advertised as Secretary of the London corresponding Society, and desires to be informed of the particulars of the plan of that institution, which the Newcastle Society mean to make their example.

A draft of an answer to the above, was next read, where the members of the society at Newcastle are exhorted in the name of God, to continue their exertions for the suppression of monarchial tyranny. Mention is made that the Corresponding Society meets twice a week; that some of its resolutions shall be sent; and it concludes with wishing tyranny may expire under the guillotine.

A letter to Hardy, from Norwich, mentions two subscriptions to the society of one hundred pounds each, and one of twenty pounds, had been made to the society, which is represented as in a flourishing state.

A letter from a society at Hereford, desires information as to what besides the communication of useful knowledge is meant to be obtained by the London Corresponding Society.

The draft of an answer to the above purports, that, exclusive of the diffusion of general knowledge, the object of the London Corresponding Society, is to stop the progress of despotism, to represent virtue in her true and beautiful colours, and expose the deformity of vice; and to cultivate and per-

manently secure the Rights of Man. Mr. Gurnell, Mr. Lauzun, and Mr. Timms, proved finding the above papers in possession of the prisoner.

A letter written by Hardy, returns thanks to the Society for Constitutional Information, for two hundred copies of Resolutions, and two hundred Letters to Dundas, saying, they shall be seen by as many thousand people.

Mr. Daniel Adams being sworn, he said he was formerly Secretary to the Constitutional Society; and a book being handed to him, he said it was one in which he entered the minutes of the proceedings of the society. This book he said was free for the inspection of members; and that at every meeting the minutes of the preceding meeting were read.

The minutes of the meeting of the Constitutional Society, held at the Crown and Anchor, on the 11th of August 1792, and the subsequent days were then read. These related to the admission of six members from the London Corresponding Society; their thanks to Mr. Paine for his works; their declining his offer of a *thousand pounds* from the profits of the sale of the Rights of Man, to be applied to such purposes as the Society may think proper.—The ground on which they declined this offer was, that the principal source of his enjoyment they said must arise from his own consciousness of the good which his labours had rendered to mankind; yet they did not think it right, that he should be deprived of the profits fairly resulting from those labours.

As much stress was laid by the Counsel for the prosecution on the sanction and adoption thus given to the works of Mr. Paine, we subjoin a list of the members present at those meetings.

Mr. FROST	Mr. J. H. TOOKE
Mr. EDWARDS	Mr. BONNEY
Mr. J. WILLIAMS	Mr. PAYNE
Dr. MAXWELL	Mr. HULL
Mr. SHARPE	Mr. PIERSON
Dr. KENTISH	Mr. STURCH
Mr. G. WILLIAMS	Mr. CONSTABLE
Mr. RIVINGTON	Capt. HARWOOD
Mr. BUSHE, sen.	Mr. BUSHE, jun.
Mr. TUFFNELL	Mr. MAILLOW
Mr. HINDE	Lord SEMPILL
Mr. FITZGERALD	Mr. BARBELOW
Mr. JENNINGS	Mr. ALLEN
Mr. CHAPMAN	Mr. ASPINHALL
Mr. HARDY	Mr. GRANT
Capt. PERRY	Dr. TOWERS
Mr. GERALD	Mr. LITTLEJOHN
Mr. RUTT	Mr. SUTTON

Mr. MOORE
Mr. GOUGH
Mr. JOYCE

Mr. MARTIN
Mr. SIMMONS
Mr. WALSH, &c.

Mr. Jordan was sworn, and a paper being shewn him, he was asked if it was in the hand writing of Mr. Paine. He believed this to be Mr. Paine's writing, but could not swear it; for though, in the course of business, he had frequently received notes from Mr. Paine, he had never seen him write. He published *The Rights of Man* for Mr. Paine, but could not swear that a copy shewn to him was one of the identical books published by him; but from his name appearing in the title page, and other circumstances, it very probably might be one of the books published by him.

Being asked by whom the book was printed, he said by Mr. Chapman. Here Mr. White, Solicitor to the Treasury, mentioned that the person who had purchased the copy of the book, called *The Rights of Man*, was dead. Thus a temporary chasm occurring in the evidence, the Bench informed the Jury, that if they wished for refreshment, they might avail themselves of the present opportunity. The Court then adjourned for an hour.

The Court being resumed, Mr. Lauzan, the Messenger, was called in, and proved his signature to a copy to *The Rights of Man* seized in the prisoner's house.

A letter was then read from Mr. Paine to the People of France, dated Sept. 25, 1792; in this letter he returns them thanks for having elected him a French Citizen, and a Member of the Convention, and on having broken the line which limited patriotism, like vegetation, to the soil. Theirs, he said, was not the paltry cause of Kings, but the great cause of mankind.—He should therefore cheerfully join their cause, and embrace their hazards. He congratulated himself on the share which he had taken in the American Revolution, and the more as it now appeared that the *Old World* had been regenerated as it were by the efforts of the New.—He observes that it is impossible to conquer a nation determined to be free, but that Kings, accustomed to make war only on each other, had no idea of the resources of an armed nation. The latter were always found at their height when they were expected to be at an end, &c.

Mr. Chapman proved that, by the direction of Mr. Paine, he printed the first part of *The Rights of Man*, from the manuscript provided by the author; but that not receiving sufficient copy to complete the Second part of the work, he proceeded only as far as page 128. The witness believed the copy on the table to have been printed by him.

The Clerk at the table now read the following extracts of *The Rights of Man*, which in so marked a manner had re-

ceived the sanction and patronage of the Society for Constitutional Information, and the London Corresponding Society, in respect to the avowed anti-monarchical principles of the author.

RIGHTS OF MAN. PART I.

Page 54.—“ Can then Mr. Burke produce the English Constitution? If he cannot, we may fairly conclude, that though it has been so much talked about, no such thing as a constitution exists, or ever did exist, and consequently that the people have yet a constitution to form.

“ Mr. Burke will not, I presume, deny the position I have already advanced; namely, that governments arise either *out* of the people or *over* the people. The English government is one of those which arose out of a conquest, and not of society, and consequently it arose over the people; and though it has been much modified from the opportunity of circumstances since the time of William the Conqueror, the country has never yet regenerated itself, and is therefore without a constitution.”

Page 55.—“ A government on the principles on which constitutional governments arising out of society are established, cannot have the right of altering itself. If it had, it would be arbitrary. It might make itself what it please; and wherever such a right is set up, it shews there is no constitution. The act by which the English Parliament empowered itself to sit seven years, shews there is no constitution in England. It might, by the same self-authority, have sit any greater number of years, or for life. The bill which the present Mr. Pitt brought into Parliament some years ago, to reform Parliament, was on the same erroneous principle. The right of reform is in the nation in its original character, and the constitutional method would be by a general convention elected for the purpose.”

Page 60.—“ Much is to be learned from the French constitution. Conquest and tyranny transplanted themselves with William the Conqueror from Normandy into England, and the country is yet disfigured with the marks. May then the example of all France contribute to regenerate the freedom which a province of it destroyed!”

Page 152.—“ The two modes of government which prevail in the world, are, *first*, Government by election and representation, *secondly*, Government by hereditary succession. The former is generally known by the name republic; the latter by that of monarchy and aristocracy.

“ Those two distinct and opposite forms, erect themselves on the two distinct and opposite basis of Reason and Ignorance.—As the exercise of Government requires talents and

abilities, and as talents and abilities cannot have hereditary descent, it is evident that hereditary succession requires a belief from man, to which his reason cannot subscribe, and which can only be established upon his ignorance; and the more ignorant any country is, the better it is fitted for this species of Government."

Page 156. — "From the Revolution of America and France, and the symptoms that have appeared in other countries, it is evident that the opinion of the world is changing with respect to systems of Government, and that revolutions are not within the compass of political calculations. The progress of time and circumstances, which men assign to the accomplishment of great changes, is too mechanical to measure the force of the mind, and the rapidity of reflection, by which revolutions are generated: All the old governments have received a shock from those that already appear, and which were once more improbable, and are a greater subject of wonder, than a general revolution in Europe would be now.

"When we survey the wretched condition of man under the monarchical and hereditary system of Government, dragged from his home by one power, or driven by another, and impoverished by taxes more than by enemies, it becomes evident that those symptoms are bad, and that a general revolution in the principles and construction of Governments is necessary.

"What is Government more than the management of the affairs of a nation? It is not, and from its nature cannot be, the property of any particular man or family, but of the whole community, at whose expence it is supported; and though by force or contrivance it has been usurped into an inheritance, the usurpation cannot alter the right of things. Sovereignty, as a matter of right, appertains to the nation only, and not to any individual; and a nation has at all times an inherent and indefeasible right to abolish any form of Government it finds inconvenient, and establish such as accords with its interests, disposition, and happiness. The romantic and barbarous of men into Kings and subjects, though it may suit the condition of courtiers, cannot that of citizens; and is exploded upon the principle upon which Governments are now founded. Every citizen is a member of the sovereignty, and, as such, can acknowledge no personal subjection; and his obedience can be to the laws.

"When men think of what Government is, they must necessarily suppose it to possess a knowledge of all the objects and matters upon which its authority is to be exercised. In this view of Government, the Republican system, as estab-

shed by America and France, operates to embrace the whole of a nation; and the knowledge necessary to the interest of all the parts, is to be found in the center, which the parts by representation form: but the old Governments are upon a construction that excludes knowledge as well as happiness; Government by Monks, who know nothing of the world beyond the wall of a Convent, is as consistant as government by Kings.

“What were formerly called Revolutions, were little more than a change of persons, or an alteration of Local circumstances. They rose and fell like things of course, and had nothing in their existence or their fate that could influence beyond the spot that produced them. But what we now see in the world, from the Revolutions of America and France, are a renovation of the natural order of things, a system of principles as universal as truth and the existence of man, and combining moral with political happiness and national prosperity.

Page 161.—“As it is not difficult to perceive, from the enlightened state of mankind, that hereditary Governments are verging to their decline, and that revolutions on the broad basis of national sovereignty, and Government by representation, are making their way in Europe, it would be an act of wisdom to anticipate their approach, and produce revolutions by reason and accomodation, rather than commit them to the issue of convulsions.

“From what we now see, nothing of reform in the political world ought to be held improbable. It is an age of revolutions, in which every thing may be looked for. The intrigues of Courts, by which the system of war is kept up, may provoke a confederation of nations to abolish it: and a European Congress, to patronize the progress of free Government, and promote the civilization of nations with each other, is an event nearer in probability, than once, were the revolutions and alliance of France and America.”

PART SECOND.

Page 21.—“All hereditary government is in its nature tyranny. An heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government, is to inherit the people, as if they were flocks and herds.”

Page 27.—“How irrational then is the hereditary system which establishes channels of power, in company with which wisdom refuses to flow! By continuing this absurdity, man is perpetually in contradiction with himself; he accepts, for a king, or a chief magistrate, or a legislator, a person whom he would not elect for a constable.”

Page 47 —“ This convention met at Philadelphia in May 1787, of which General Washington was elected president. He was not at that time connected with any of the state governments, or with congress. He delivered up his commission when the war ended, and since that had lived a private citizen.

“ The convention went deeply into all the subjects; and having, after a variety of debate and investigation, agreed among themselves upon the several parts of a federal constitution, the next question was, the manner of giving it authority and practice.

“ For this purpose, they did not, like a cabal of courtiers, send for a Dutch Statholder, or a German Elector; but they referred the whole matter to the sense and interest of the country.

“ They first directed, that the proposed constitution should elect a convention, expressly for the purpose of taking into consideration, and of ratifying and ratification of any nine states should be given, that those states should proceed to the election of their proportion of members to the new federal government; and that the operation of it should then begin, and the former federal government cease.”

Page 52. —“ The history of the *Edwards* and the *Henries*, and up to the commencement of the *Stuarts*, exhibits as many instances of tyranny as could be acted within the limits to which the nation had restricted it. The *Stuarts* endeavoured to pass those limits, and their fate is well known. In all those instances we see nothing of a constitution, but only of restrictions an assumed power.

“ After this, another *William*, descended from the same stock, and claiming from the same origin, gained possession; and of the two evils, *James* and *William*, the nation preferred what it thought the least; since, from circumstances, it must take one. The act called the Bill of Rights, comes here into view. What is it, but a bargain, which the parts of the government made with each other to divide dowers, profits, and privileges? You shall have so much, and I will have the rest; and with respect to the nation, it said, for *your share*, *You shall have the right of petitioning*. This being the bill of rights is more properly a bill of wrongs, and of insult. As to what is called the Convention Parliament, it was a thing that made itself, and then made the authority by which it acted. A few persons got together, and called themselves by that name. Several of them had never been elected, and none of them for the purpose.

From the time of *William*, a species of government arose, issuing out of this coalition bill of rights: and more so, since the corruption introduced at the Hanover succession,

by the agency of Walpole; that can be described by no other name than a despotic legislation.

“ Though the parts may embarrass each other, the whole has no bounds; and the only right it acknowledges out of itself, is the right of petitioning. Where then is the constitution either that gives or that restrains power ?

“ It is not because a part of the government is elective, that makes it less a despotism, if the persons so elected, possess afterwards as a parliament, unlimited powers. Election, in this case, becomes separated from representation, and the candidates are candidates for despotism.

“ I cannot believe that any nation, reasoning on its own rights, would have thought of calling those things a *constitution*, if the cry of constitution had not been set up by the government.”

Page 63—“ With respect to the two houses, of which the English Parliament is composed, they appear to be effectually influenced into one, and, as a legislature, to have no temper of its own. The Minister, whoever he at any time may be, touches it as with an opium wand, and it sleeps obedience.

“ But if we look at the distinct abilities of the two houses, the difference will appear so great, as to shew the inconsistency of placing power where there can be no certainty of the judgment to use it. Wretched as the state of representation is in England, it is manhood compared with what is called the house of Lords; and so little is this nick named house regarded, that the people scarcely inquire at any time what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the nation. In the debate on engaging in the Russian and Turkish war, the majority in the house of Peers in favour of it was upwards of ninety, when in the other house, which is more than double its numbers, the majority was sixty-three ”

Page 65 —“—“ But in whatever manner the separate parts of a constitution may be arranged, there is one general principle that distinguishes freedom from slavery, which is, that all *hereditary government over a people is to them a species of slavery, and representative government is freedom.*”

Page 107 —“ Having thus glanced at some of the defects of the two houses of Parliament, I proceed to what is called the Crown, upon which I shall be very concise.

“ It signifies a nominal office of a million sterling a year, the business of which consists in receiving the money. Whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every Ministry acts upon the same idea that Mr. Burke writes, namely, that the people must be hood-winked, and held in superstitious ignorance by one bugbear or other; and what is called the Crown answers

this purpose, and therefore it answers all the purposes to be expected from it. This is more than can be said of the other two branches."

Page 161.—The fraud, hypocrisy, and imposition of governments, are now beginning to be well understood to promise them any long career. The farce of monarchy and aristocracy, in all countries, is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies, and the mourners be comforted.

"The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zell, or Bruswick for men, at the expence of a million a year, who understand neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England."

The preface to *The Rights of Man*, and the Dedication of the second part of that work to the Marquis De la Fayette, were also read by the Clerk.

A minute of the proceedings of the Constitutional Society, dated 28th of September, was next read, including the thanks of the Society voted to Joel Barlow, Esq. for his publication, entitled *Advice to the National Convention*.

Mr. Johnson of St. Paul's Church Yard, was called to prove the publication of this pamphlet, of which about 5 or 600 had been sold. He was asked how many of Mr. Paine's Book had been circulated? Mr. Johnson admitted that he had sold *The Rights of Man*, but it was before it had been declared by the verdict of a Jury to be a libel. He appealed to the Court, when pressed on this subject, and the question was over-ruled. He admitted in reply to a more general question from Mr. Garrow, that the sale of Mr. Paine's book had been very considerable.

On being asked whether he had sold any of Paine's letter to Dundas, he replied in the negative. He had forwarded some in a parcel to the country, but could not say from what quarter they had been received.

The Clerk then proceeded to read several extracts from Mr. Barlow's Pamphlet, addressed to the National Convention, on the defects of the Constitution of 1791.

A variety of other Letters of Correspondence and Papers were produced and read in evidence. Among them was a pamphlet wrote by Joel Barlow.

Mr. Johnson was called, who proved that about one

thousand of these pamphlets were printed and published, and that it underwent three editions.

Of this pamphlet several passages were read, which purported to be an answer to Mr. Burke. In one of the passages, Kings were represented to be inimical to a popular and free government. Others contained a strong panegyric on the Revolution of France and Republican principles. This pamphlet was found in the possession of the prisoner.

Mr. Johnston also proved the publication of Paine's Letter, entitled *The Address to Addressers*, found also in the prisoner's possession.

A book of the London Corresponding Society was then produced, from which a minute was read. By this minute it appeared, that an Address of Congratulation was sent to the National Convention of France, signed by Margarot, as Chairman, and the prisoner as Secretary.

At one of the meetings of the Constitutional Society, an Address to the National Assembly was voted to be presented to the National Convention of France, by Joel Barlow and John Frost.

This Address congratulated the Assembly at Paris on the Reform of their State, and the members of the Society pledged themselves to recommend it to their countrymen an example so highly deserving their imitation. The Convention were assured of the exertion of their best endeavours, and of those of their brethren to forward this purpose with spirit and energy; and as a proof of the sincerity of their attachment, a donation of a thousand pair of shoes was offered, which should be followed by equal supplies of the same article for five succeeding weeks; and this is mentioned as a measure well adapted to concur with other patriotic measures for promoting and carrying into effect the wisdom of their revolutionary councils.

On presenting this address, the deputies received the honour of the national embrace, and on their retiring, every enthusiastic mark of of applause and admiration was shewn them.

In this address, the ever memorable event of the 10th of August, is spoke of preliminary to future great and splendid achievements, and the establishment of a new Constitution, founded on the firm basis of the principles of reason and the laws of nature, and which would give freedom and happiness to the oppressed, and hurl mesited punishments upon the tyrants and oppressors of mankind. The address concludes with an exhortation to the legislators of France, to persevere with unabating vigour and energy in the arduous task they have already so successfully commenced. The prize of this great and glorious enterprize will be the wreaths of honour and

fame, which are to entwine the brows of the members of the Convention, and become the admiration and envy of surrounding nations. With us, it is said in the address, the sparks of liberty are like the corruscations of the Northern Aurora, which serve but to render darkness invisible. The Republic of America, though it emits a strong, yet from the remoteness of its situation, it is but a feeble ray. It was reserved for the authors of the Revolution in France, to break through and disperse thick mists and darkness, and pour its broad effulgence through this, our obscured hemisphere, and, like a meridian Sun, to dispel those clouds of ignorance and oppression, which despotism has spread around the European world.

The address was received in the convention, and an answer to it voted, containing an invocation to the shades of Pym, Hampden, and Sydney, who bravely died in defence of the liberty of their country.

It was proved that Mr John Horne Tooke was chairman of the Constitutional Society, at the Crown and Anchor in the Strand, on the 19th of October, 1792, when a resolution was passed expressive of their approbation of the answer proposed to be sent to Mr. Joel Barlow, and expressive of their wish to adopt the address proposed by him to the National Assembly of France, at the same time ordering his letter to be published, and appointing a committee of delegates to confer with the Corresponding Society, on the address to the assembly.

The minutes of the Constitutional Society on the 26th of October, and those down to the 27th of December, 1792, were read.

Mr. Maclane, one of the King's messengers, being called, some papers were shewn to him, which he proved to have been found in the possession of Mr. Adams, Secretary to the Society for Constitutional Information; and it appeared that these were papers transmitted by Messrs. Frost, Barlow, and other members of the associated and co-operating societies.

Mr. Wood proved a letter addressed to Mr. J. H. Tooke, to be in the hand-writing of Mr. Frost, under date of Paris, September 20th, 1792. This letter spoke in terms of high exultation of the exploit of the 10th of August, as a leading step to the emancipation of mankind, from the intolerable despotism of kingly authority, and recommending the people of England to follow the example of France, and *lift themselves up* against the perfidious court of St. James's, whose infernal policy had made so many victims of the subjects of the two nations, and fomented dissensions between, for the purpose of tyrannizing over them. The letter also made an offer of supplying the English association with musquets, bayonets, pikes, and other arms, and declared that the soldiers of French li-

erty, would be ready to act in conjunction with their brothers in England, in opposing the progress of despotism.

And a hope was expressed, that the period was nearly arrived when the French Convention would have an opportunity of sending congratulatory addresses to a National Assembly in England.

A letter from Mr. Frost, written at Paris, was read, mentioning the arrival of himself and his fellow deputy Barlow, wherein an account is given of Mr. Paine having entered himself on the roll of parliament, and being received in the assembly with great acclamations and applause; and the affair of the 10th of August, is mentioned in terms of triumph, and as a leading measure to destroy the general system of monarchical government.

Mr. Huskinson, a gentleman holding a very respectable situation in the office of the Right Honourable Henry Dundas, one of his Majesty's principal Secretaries of State, was sworn. This gentleman said he was at Paris on the 10th of August, 1792, being then a resident in the house of the British Ambassador. That he heard on that day repeated discharges of musquetry, proceeding, as he understood from the people attempting to force their way into the palace, and others opposing their passage; that he perceived the buildings attached to the palace on fire; that the governor of the palace fled from thence for safety, and took shelter in his lodgings; that on account of the popular tumults prevailing, he remained at home during the day; but walking towards the palace, towards the evening, he perceived the buildings adjoining and near it still burning, soon after which he was stopped by the guards, but released in a short time. One of the counsel for the Crown, begged it might be held in recollection, that this was the state of Paris, at the time spoken of in such terms of triumph and exultation, in a letter lately read to the court.

Mr. Huskinson was proceeding in a narrative of the proceedings among the populous of Paris on the 10th of August, when the Lord President interrupted, requesting, that he would go no further into a relation of occurrence which had now become a part of history. The witness was proceeding, when the Lord president said, The whole is, that on the day you have mentioned, there was a great tumult, and much

blood-shed near the palace, which was the residence of the King of France and his family, who in consequence of those occurrences sought for shelter in the hall of the Legislative Assembly, where they were made prisoners, and were not restored to liberty.

Mr. Erskine. I am content, it shall stand, though I cannot see for what purpose a witness is brought here to prove what every one knows.

Mr. Maclane proved finding in the custody of Mr. Adams, a letter, written in French, from a popular society at Loan, addressed to the Constitutional Society, stiling the members, "Generous Republicans," and hoping the time was near, when the Rights of Man would be universally acknowledged. A letter of the same tendency, and with the same address, from a Society at Macon, was read.

While the clerk at the table read the translations of the letters from the two societies, Mr. Huskinson looked at the same in the original language, and suggested two or three slight alterations for making the translations correctly literal.

Mr. Woodfall proved the hand-writing, and Mr. Thompson that the papers were found among Mr. Tooke's, when seized. The passage of moment was that, stating a patriotic gift of 4000 livers to be for the defence of France, "against all the tyrants who have dared, or who shall dare to attack her liberty, without excepting any one, even if he were of my own country.

The proceedings of a meeting of the Society for Constitutional Information, in January, 1793, were read, containing resolutions for admitting citizens St. Andre, Barrere, and Roland, honorary members of the Society, and declaring, that the people of Great Britain were utterly averse to a war with France.

At a meeting of the same Society, February 1, 1793—Resolved, that the speeches of St. Andre and Barrere, as printed in the Paris Gazette Nationale, or *Moniteur*, be entered on the books of the Society.

The following passage is extracted from St. Andre's speech; "Your right to decide the fate of the king, arises from your being a revolutionary assembly, created by the nation in a state of insurrection.

"Barrere's speech is much more full and more systematically reasoned; it is divided into several heads, from which the following extracts are taken,

"The proceeding (speaking of the trial of the King) is of the highest importance to public order, absolutely necessary to the existence of liberty and connected with whatever is held most sacred by the nation. From the calmness and tem-

per, which have distinguished the deliberations of the convention on this occasion, it may be foreseen that justice and reason will direct its ultimate sentence. History will record the striking contrast between kings, who, in the midst of the dissipation of courts, sign proscriptions and death warrants for the destruction of thousands of citizens, and the representatives of the people, who deliberate with wisdom and caution on the punishment of a single despot.

It is the destiny of kings to be the occasion of the calamities of the people, whether they remain on their thrones, or whether they are precipitated from them.

PART II.

Whether the *Person of the King* be inviolable.

The people of Paris, by making an holy insurrection against the king on the 10th of August, deprived him of his character of inviolability. The people of the other departments applauded this insurrection, and adopted the consequence of it. The people have therefore formally interposed to destroy this royal inviolability. The tacit consent of the people rendered the person of the king inviolable. The act of insurrection was a tacit repeal of that consent and was founded on the same grounds of law as the consent itself.—The king's person is inviolable only with relation to the other branches of the legislature, but not with relation to the people.

PART III.

Whether an *Appeal shall be made to the people?*

The people is the Sovereign.

A Convention differs from an ordinary legislature in this respect. A legislature is only a species of superintending magistracy, a moderator of the powers of government. A convention is a perfect representation of the Sovereign. The members of the legislative assembly acted in August upon these principles. In summoning the Convention, they declare, that they saw but one measure which could save France; namely, to have recourse to the supreme will of the people, and to invite the people to exercise immediately that unalienable right of Sovereignty which the Constitution had acknowledged, and which it could not subject to any restriction. The public interest requires that the people should manifest their will by the election of a National Convention, formed of representatives invested by the people with unlimited powers. The people did manifest their will by the elec-

tion of that Convention. The Convention being assembled, is itself that sovereign will which ought to prevail. It would be contrary to every principle to suppose that the Convention is not alone exclusively the expression of the general will.

“ The powers of the Convention must, from the very nature of the Assembly, be unlimited with respect to every measure of general safety, such as the execution of a tyrant.—It is no longer a Convention if it has not power to judge the King.

“ A Convention is a constituent Body *i. e.* a body that is to make a constitution for the people.—A legislature makes laws under an established constitution, and in conformity to it. It is despotism when in the ordinary and permanent establishment of a state there is no separation of powers; but it is of the very essence of a constituent body to concentrate for the time all authority.—It is the very nature of a National Convention to be the temporary image of the nation, to unite in itself all the powers of the state, to employ them against the enemies of liberty, and to distribute them in a new social compact called a constitution.

“ Behold that Constituent Assembly which laid the first foundations of your liberty! Behold that revolutionary genius, which broke through every impediment, exceeded its delegated authority, created its own powers according to the exigencies of liberty, and to the occasional wants of the people, destroyed all prejudices by the force of that public opinion to which it gave birth, obliterated all privileges, abolished all the Parliaments, changed the form and tenure of all property, as well as the measure and sign of all value, and made a perjured King its prisoner: nothing was wanting to immortalize that assembly, but to have delivered France from the calamity of Kingly Government, and to have relieved you from the duty of judging the last of your Kings.

“ With this example before your eyes, you hesitate even in the first step of your duty. Am I then no longer in the midst of this National Convention, whose honourable mission it was to destroy Kings and Royalty?”

Mr. Huskinson and Mr. Deboffe were called to prove the *Moniteurs* genuine Paris papers.

Mr. Erskine.—“ Do you call this evidence?—

COURT.—Not evidence as to any particular person, but reasonable in evidence as to general facts.”

Mr. Erskine.—“ I desire only that it may be understood, that these speeches are reports of what members of the French Convention said in their places of that Convention.”

Mr. Huskinson was then called to the accuracy of the translation of the speeches; but his objections were so nu-

merous that the counsel for the crown requested a new translation from the witness.

Feb. 1, 1793.—Read a letter from the Society for Constitutional Information at Birmingham, and admitted as members twelve persons recommended in the letter—Read the answer from Birmingham, dated March 25, to the communication of the above proceeding.

The proceedings of several other meetings of this Society, as they appear in the report of the Secret Committee of the House of Commons were read; and it being past ten o'clock.

Mr. Gibbs complained of indisposition, consequent an excessive fatigue, adding that as there appeared no probability of soon coming to a conclusion of the written evidence, and as it was now ten o'clock at night, he begged leave of the court to suggest his wish for an adjournment.

Mr. Erskine suggested to the court, that his learned coadjutor, Mr. Gibbs, was so extremely fatigued with the labourious duty of the day, as to render his retiring very desirable to him. It was then past ten o'clock, and the fatigue, inseparable from the business of the day, was easy to be conceived. It was to be noticed, that the prisoner's counsel had a harder duty to perform than the counsel for the crown, because the number of the latter being so great, one could be occasionally absent for a whole day, but there being only two for the prisoner, neither of them could be spared. Mr. Erskine said, that from the early hour the court met in the morning, and the late period at which it adjourned at night, i.e. saw no daylight till the business commenced.

The *Chief Justice* said, that he should certainly do everything in his power, to accommodate the prisoner's counsel. His lordship admitted the force of the remark made by Mr. Erskine, respecting the different situation, in point of accommodation between the counsel for the crown and for the prisoner. The learned judge thought Mr. Gibbs might retire for that night, and still the business go on.

Mr. Erskine said, he hoped that after the great chaos of evidence on the part of the crown was finished, he should have some time allowed to consider it, before he was called upon to address the Jury.

The *Court* said, that every accommodation would be granted to both the prisoner's counsel that public justice would admit.

The trial then proceeded.

The proceedings of the Society on the 28th of October, 1793, were read, when it was resolved to send Delegates to the Convention at Edinburgh.—Delegates were ballotted for, and instructions to them prepared, containing references to Mr. Pitt's speeches on the Reform of Parliament, the Duke

of Richmond's letter to colonel Sharman, and particularly to Mr. Tooke's speech in the Court of King's Bench, on the case of the Westminster Election. The instruction claimed the right of suffrage for all persons, not infants, lunatics, place-men, or pensioners.

The resolutions of the Society on the dissolution by magistrates of the Convention at Edinburgh, and the prosecution of some of the members, were read.

The next minute from the book, was of their meeting of the 24th of January, which was remarkable for its epigrammatic point.—It is as follows :—

“ A motion was made, that it be resolved that, the excellent Address of the London Corresponding Society, be inserted in the books of this Society; and that the King's Speech to his Parliament, be inserted under it, in order that they may both be always ready for the perpetual reference of the members of this Society during the continuance of the present unfortunate war; and that (*in perpetuam memoriam*) they may be printed together in one sheet at the happy conclusion, which according to the present prosperous appearances, we hope and believe not to be many months distant.

“ An amendment was moved, that between the words (HIS) and (Parliament) the word (Honourable) should be inserted,

“ Honourable was withdrawn.

“ Another amendment was then moved, that between the words (HIS) and (Parliament) the word (Faithful) should be inserted.

“ Faithful was withdrawn.

“ And it was unanimously resolved, that HIS, and HIS only, is the proper epithet for Parliament upon the present occasion.

“ The resolution then passed unanimously in its original form.”

The rest of the minute was immaterial.

Mr. Garrow proceeded to further minutes of the proceedings of the Society, and the most remarkable of them here follow :

It was proposed by Mr. J. H. Tooke, that two books should be prepared for the use of the Society; one bound in black, and the other in white; that in the former should be recorded the enormities of all persons deserving the disapprobation of the Society; and that in the latter should be inserted minutes of the public-spirited and patriotic conduct of such persons as were justly entitled to the commendation and applause of the Society.

On the 27th of March, and at some subsequent meetings, the two Societies held conferences, and at length came to a resolution on the expediency of holding a general meeting,

or Convention, for the purpose of determining upon the most proper means of procuring, First, a Bill for a full, fair, and equal representation of the people in Parliament.

Secondly, For recommending and urging the expediency of a frequent and cordial correspondence between the Societies engaged in the same pursuit.

Thirdly, That a friendly and fraternal intimacy should be established between the two Societies.

These resolutions were unanimously carried.

At a following meeting, a pamphlet was read, containing a general narrative of the proceedings of the two Societies; and it was proved, that two thousand copies of this pamphlet were printed. At the request of Mr. Garrow, Mr. White read several extracts from the above pamphlet, among which were a letter of the Society to the reverend Mr. Fyshe, Messieurs Palmer, Muir, and Skirving, then on board the vessel in which they were to be transported; together with an account of celebrating the anniversary at the Globe in the Strand, where, among many other, the following toasts were drank:

The Swine of England.

The Armies contending for Liberty.

The reign of Peace and Liberty.

May the Abettors of the Present War be its Victims.

Mr. White was proceeding to read some songs contained in this pamphlet, but he stopped, upon Mr. Garrow signifying that the recital of them would be unnecessary.

The pamphlet contains a copy of the following letter to Joseph Gerrald and Maurice Margarot, together with the resolutions following the letter.

The Society having already addressed M. Margarot, their Delegate, an ADDRESS to JOSEPH GERRALD was read as follows, and carried unanimously,

To JOSEPH GERRALD, a prisoner sentenced by the High Court of Jus'ticiary of Scotland, to Transportation beyond the Seas for FOURTEEN YEARS,

WE behold in your beloved and respected friend and fellow-citizen, a martyr to the glorious cause of equal representation, and we cannot permit you to leave this degraded country without expressing the infinite obligations the people at large, and we in particular, owe to you for your very spirited exertions in that cause upon every occasion; but upon none more conspicuously, than during the sitting of the BRITISH CONVENTION of the PEOPLE at Edinburgh, and the consequent *proceeding* (we will not call it *trial*) at the bar of the court of justiciary.

We know not which most deserves admiration, the splendid talents with which you are so eminently distinguished; the

exalted virtues by which they have been directed; the perseverance and undaunted firmness which you nobly displayed in resisting the wrongs of your insulted and much oppressed country; or your present manly and philosophical suffering under an *arbitrary*, and till of late *unprecedented* sentence: a sentence, one of the most vindictive and cruel that has been pronounced since the days of that *most infamous* and *ever-to-be detested* court of Star Chamber, the enormous tyranny of which cost the first Charles his head.

To you and to your associates we feel ourselves most deeply indebted. For us it is you are suffering the sentence of transportation with felons, the vilest outcasts of society! For us it is that you are doomed to the inhospitable shores of New Holland; where, however, we doubt not you will experience considerable alleviation by the remembrance of that **VIRTUOUS CONDUCT** for which it is imposed on you, and by the sincere regard and esteem of your fellow-citizens.

The equal laws of this country have, for ages past, been the boast of its inhabitants: But whither, are they now fled? We are animated by the same sentiments, are daily repeating the same words, and committing the same actions for which you are thus infamously sentenced; and we will repeat and commit them until we have obtained redress; yet we are unpunished! either therefore the law is unjust towards you in inflicting *punishment* on the exertions of *virtue and talents*, or it *ought* not to deprive us of *our share* in the **GLORY** of the *Martyrdom*.

We again, therefore, pledge ourselves to you and to your country, never to cease demanding our rights from those who have usurped them, until having obtained an equal representation of the people, we shall be able to hail you once more with triumph to your native country.—We wish you health and happiness; and be assured we never, *never* shall forget *you name, your virtues, nor YOUR GREAT EXAMPLE*.

The London Corresponding Society.

JOHN LOVETT, Chairman.

THOMAS HARDY, Secretary.

The 14th of April, 1794.

It was also unanimously resolved,

I. That the committee of correspondence be directed to convey the approbation of this society.—I. To Archibald Hamilton Rowan, prisoner in the Newgate in the city of Dublin, for his unshaken attachment to the people, and for his spirited assertion of their rights.

II. To John Philpot Curran for his admirable and energetic defence of A. H. Rowan, and the principles of Liberty, as well as for his patriotic conduct in parliament.

III. To the society of the united Irishmen in Dublin, and to exhort them to persevere in their exertions to obtain justice for the people of Ireland.

IV. To Skirving, Palmer and Muir, suffering the same iniquitous sentences, and in the same cause with our delegates.

V. To John Clark, and Alexander Reid, for their so readily and disinterestedly giving bail for our delegates, instigated thereto solely by their attachment to liberty, uninfluenced by any personal consideration.

VI. To Adam Gillies, Malcolm Laing, and James Gibson, for their able assistance given to Joseph Gerrald, at the bar of the high court of judiciary at Edinburgh.

VII. To felicitate Thomas Walker, of Manchester, and the people at large, on the event of his, as well as several other late trials, and on the development of the infamy of a system of spies and informers.

VIII. To Sir Joseph Mawbey, for his manly conduct at the late surreptitious meeting held at Epsom in Surry.

It was also unanimously resolved,

That two hundred thousand copies of the proceedings and resolutions of this meeting be printed and published.

J. LOVETT, Chairman.
T. HARDY, Secretary,

Resolved,

That the thanks of this meeting be given to the chairman, for his manly and impartial conduct this day.

T. HARDY, Secretary.

A short time after twelve o'clock, the Lord President addressed himself to the jury, saying, that as some considerable portion of the great mass of written evidence still remained to be examined, and as no given time could be ascertained within which the trial would be concluded, another adjournment of the court became necessary. His Lordship added, that while the gentlemen of the jury were engaged in the discharge of the very arduous and a labourious duty imposed upon them, he trusted that every kind of accommodation would be afforded, that the nature of their situation would admit of.

The Foreman of the jury rose, and informed the court, that were the jury to pass this night in the manner they had done the former one, their health, and probably even their lives might be endangered. After the fatigue of a very long attendance in a crowded court, they were obliged without tak-

ing off any part of their apparel, to endeavour to obtain a short repose, by stretching themselves upon hard pallets; and further to add to the inconvenience of their situation, their servants were denied access to them, so that they could not enjoy the comfort of a change of linen; nor were they in possession even of a razor for shaving themselves. On these considerations, the Foreman, on behalf of his brethren and himself, begs to express a wish, that they might be permitted to retire to their own houses.

The Lord president said, the court lamented that it was not in their power to accede to the wishes of the jury, on a subject that had been discussed last night, when a decision had been made upon it which could not now be departed from.—The jury could not be permitted to separate, consistent either with safety or a due regard to the administration of justice.

The Lord President enquired whether beds and other accommodations could not be procured for the jury, at some Hotel or Coffee-house, where probably a sufficient number of Beds might be provided for them in one room.

The jury signified that in the way suggested from the court, their situations might be rendered much more comfortable than it had been the night before.

The Lord President then said, the gentlemen of the jury should all be attended to one house, by the Sheriffs and a proper number of sworn bailiffs; and his lordship told them, that he would not require their attendance until ten this morning; which attendance, at the request of Mr. Erskine, was further postponed till eleven; and he moreover permitted their servants to wait on them with clean linen; and facetiously observed, that if a razor could find its way in among them, he should have no sort of objection.

This conversation upon the mode of disposing of the Jury occupied the attention of the Court for near an hour. In the mean time, Mr. Erskine renewed his notice for applying for some time previous to his entering on the prisoner's defence, to look over some papers.

The Lord President said, that every reasonable indulgence should be given, but the trial must appear to go on. His Lordship having taken occasion to observe, that the trial might be ended tomorrow.

Mr. Erskine upon this exclaimed, “By no means, my Lord; the defence which I shall make is not without evidence of an extensive nature to support it, and will occupy a large portion of your Lordship's time, which will be but fair, considering the time that has been taken up on behalf of the prosecution.

The Court adjourned at one o'clock in the morning.

Thursday, Oct. 30. — Third Day.

The Court did not assemble yesterday until Twelve o'Clock.

Mr. Gurnell deposed, that he found a paper in the prisoner's possession, dated April 30, which mentioned the election of Maurice Margarot, being appointed a Delegate of the Division, No. 7, of the London Corresponding Society, for three months, James Sheriff in the Chair.

Another paper was also put in and read, which was sworn to have been found in the possession of Mr. Hardy, mentioning the appointment of David Rowland as a Delegate, at the Blue Posts, in the Haymarket. Margarot, Sec. and M^r Neil in the Chair.

Mr. Gurnell swore to another paper found in Mr. Hardy's possession, stating that the sixteenth division of the London Corresponding Society had appointed John Baxter a Delegate to the standing Committee. — Grey, Secretary.

The next Paper put in and received, found in Mr. Hardy's possession, mentioned that John Richter was appointed a Delegate by the London Corresponding Society, to establish a Sixteenth division of the Society, at the Friend's Hand, Knightsbridge. This Paper was also proved to be found in the prisoner's possession by Mr. Lauzun.

The next Paper put in and read was found in Mr. Hardy's house by Gurnell, dated the 7th of May, 1792, which mentioned that he, Mr. Hardy, was appointed a Delegate from the London Corresponding Society, to a meeting held in Exeter Street, Strand, for the purpose of forming a Constitutional code of Laws, for the government of the Constitutional Society. Signed, Thomas Boyd.

The next Paper put in on the deposition of Mr. Gurnell, signed T. Hardy, was for the purpose of delegating Mr. Vaughan, from a division of the Society, and authorising him to be present at a meeting at the Bell, Exeter Street, to assist the committee appointed to form the Constitutional Code of Laws for the government of the Society.

The Attorney General followed this Paper by another found in the possession of the prisoner, by Mr. Gurnell; it was signed T. Hardy, and directed to Mr. Wharton, M. P. It began by informing Mr. W. "That it was an original Paper worthy of his perusal, and if he saw any thing in the Preamble worthy his approbation, or adopting, he may use it accordingly. In all its parts it possessed many sweets, and he expressed a hope that he would, like the Bee, extract a little from each. It pointed out the present state of Representation, and lamented the many who were deprived of having voices for Members to serve in Parliament. It had been read in the Society, and excited universal disgust;—the evils in the

Representation are stated to be of the most glaring kind, and could not be made too public."

Mr. Lauzun deposed having found a Paper in the possession of *Mr. Hardy*, entitled "The Report of the Committee of Constitution of the London Corresponding Society, printed for use of the Members, and sold by *Thomas Spence*." This paper stated,

1st That a'l men are by nature free.

2nd, That though a man, who enjoys the advantages of Society, must relinquish a part of his liberty for the general benefit, yet he should not surrender more than necessity absolutely required.

3rd, That the Majority, however great, cannot deprive the Minority of the whole of their Civil Rights.

4th, That the People should have an equality of voices, in the Election of Persons, by whom the Laws were administered, and that the people had a right to the free exercise of Public Opinion, and should be suffered to enjoy Religious Freedom.

This Paper next adverted to the hardship of the Game Laws, which subjected the people to those *Bashaws*, *Country Justices*, and encouraged a system of spies and informer repugnant to the English Constitution. It took a general view of politics, and urged, that every person arrived at the years of discretion, not disqualified by any mental derangement, should have a voice for a Representation in Parliament. It mentioned that no name should be used in the Society calculated to make party distinction, and recommended the use of the word *Citizen*, as being what was used during the Republics of Greece and Rome.

It entered into a definition of the phrases *Aristocrats*, *Royalists*, *Republicans*, *Democrats*, &c. and mentioned, that when any division of the Society amounted to thirty, that books should be kept, and all Members admitted above that number should be entered as *Supernumeraries*, and when they amounted so sixteen, they should be formed into a division, &c.

Jane Rickman, wife of *Clio Rickman*, Bookseller, was examined on the part of the Crown.

She deposed, that two books presented to her were written by *Thomas Paine*, and published at her house. She knew *Mr. Paine*; her husband was a bookseller. *Paine* had lodged in her house, but when one of the books was printed her husband was not in England. She saw the book in sheets, which were brought to her house. The large book was published during the absence of the author from England. She said, that *Paine* was at the house when the small one was published, the *Address to the Addressers*, and was

to have profits from the large book, but not she believed from the other.

Mr. Erskine asked her if she had ever read the books shewn her, and if she had not, how could she presume to say, that they were not written and published by some person else; and was it not possible that some other person might have written a book with the same title, and have affixed her husband's name to it?

She said, she was positive as to the books:

Mr. Erskine to the Court—"I trust, my Lords, that whenever this Society, or that is mentioned, that we shall not have looser proof allowed, than what is required in case of libel."

Mr. Attorney General—"I shall not admit any positon to the extent you say."

Mr. Clio Rickman examined on oath.

Q. Have you published those books? (shewing him the two pamphlets.)

A. They were published with my name, without my knowledge.

Q. How did you know they were published?

A. I heard it in the country, where I went early in September, 1792.

Q. Who was to have the profits?

A. Never heard from my wife on that subject during my absence.

Q. Whose hand-writing is on this book? (shewing it to the witness).

A. Not mine; it is my wife's.

Q. Look at the matter of the book; did you, in the common course of your profession, ever see any other book, entitled, *The Address to the Addressers*?

A. Never read any other book, under that title, but these;

Q. You have been a Member of the Constitutional Society?

A. I have, but not for some time.

Q. Are these the books sold at your shop?

A. They are something like, but I cannot swear positively.

Jane Rickman swore that she put her name on the books sold in her shop.

Mr. Erskine observed, that the publication in question was entitled, "*The Address to the Addressers.*" What he wished to know was, how it could be admitted as evidence in this cause. He was aware that the book entitled, "*The Rights of Man,*" could be admitted, because it was proved in evidence on a former occasion, by Members of two Societies that came to Resolutions to circulate it, that *Thomas Paine*

was the Author of the work ; but in the present case no evidence of that kind was, before the Court.

The Attorney in General, in reply, said, that it had been proved in evidence, that Thomas Paine was the Author of the First Part of *The Right of Man*, and of a Letter addressed to Mr. Dundas. It was proved that Thomas Paine was a Member of the Constitutional Society ; and it was in evidence that Clio Rickman was a Member also. Thus, from both being Members of the same Society, he submitted, that the Witness might know that Mr. Paine was the Author of the Pamphlet in question.

The Lord President.—“ This is perfectly a distinct matter.”

The Attorney General.—“ Then I shall not trouble you, my Lord, to hear this paper read.”

Mr. Gurnell proved that he found two Papers in possession of the Prisoner.

They were produced and of one of them here follows a copy.

Sheffield, April 14 1794,

Fellow Citizens,

The barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive against any attack they may command their newly armed minions to make upon us. A plan has been hit upon, and, if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots, great enough to make them formidable. The blades are made of steel, tempered and polished after an improved form. They may be fixed into any shafts ; but fir ones are recommended, of the girth of the accompanying hoops at the top end, and about an inch more at the bottom. The blades and hoops, more than which cannot be properly sent to any great distance, will be charged one shilling. Money to be sent with the order. As the institution is in its infancy, immediate encouragement is necessary.

Struck through to the Original.		<i>Orders to be sent to the Secretary of the Sheffield Constitutional Society.</i>
		Signed.

RICHARD DAVIDSON.

William Camage was then called, who deposed, that he was a Member of the Society for Constitutional Information, established at Sheffield ; he had become a Member in the year 1791, and had continued to act as Secretary till the latter end of May 1793. In this capacity he did not write the letters of the Society, but only signed them ; the business of the Society was managed by a committee. Their professed object was a Parliamentary Reform, and such continued to be their ob-

ject during his Secretaryship. He ceased to be Secretary about April 1793. The Society chose Matthew Campbell Brown as their delegate to the Scotch Convention at Edinburgh, upon which occasion he was sent to him with a supply of cash, ten pounds of which he received from Sheffield, and ten pounds from Leeds: he knew not how the money was raised, but had received it from Mr. Gale, who had since quitted Sheffield. Upon being questioned whether he knew Henry Yorke, he said that he did; he had sometimes attended their meetings at Sheffield but not regularly. On such occasions he gave them exhortations, but never mentioned the subject of arms in public. In order to procure that Reform which was the object of their meetings, he exhorted them first to an application to Parliament, and he had never, after the idea of applying to Parliament was given up, heard him point out any other specific plan.

Q. You say that he never mentioned the subject of arms in public; did he mention the subject on any other occasion?

A. When the Society was threatened to be dispersed by the opposite party, in private he approved of our having arms for our own defence against any illegal attack.

Q. On what particular occasion did he approve of having arms?

A. He was shewn a blade of a pike, which he approved of; it was shewn him by me and by Henry Hill.

Q. By whom was this blade made?

A. I believe by Henry Hill.

Q. Did he then mention no others arms?

A. No.

The witness then deposed that he understood that Mr. Yorke had afterwards been shewn a pike of a different construction, which he himself had not seen, and that he had also been shewn a pike-handle made by Hill.

Q. What number of these pikes were made?

A. About three dozen.

Upon being again more particularly interrogated, he repeated his assertion, that he had never heard arms recommended by Yorke in public.

Q. Were you present at no meeting in March, 1794, at which he recommended to have recourse to arms?

A. I was present with him on the Castle Hill, but no such conversation passed.

Q. Do you remember no other meeting?

A. I remember a speech which he delivered on the Castle-Hill, in which he recommended not to petition Parliament, and proposed an address to the nation.

Q. Do you recollect nothing that followed on that occasion?

A. He was carried home in triumph by the people who were there assembled.

Q. Did you never hear talk of a Convention ?

A. Yes, I heard him talk of the Scotch Convention as a very wrong piece of business, because the people were very much unprepared for such a measure ; he thought that they should first have brought out an Address to the Nation. He was then shewn a copy of the letter which had been read, and upon being asked whether he had seen it, replied that he had seen it at the house of Richard Davison. Being asked why the answer to this letter was desired to be addressed to Moody, and not to the secretary of the Society ; he answered it was only for the sake of the greater safety of conveyance, as it had been found that letters immediately addressed to the secretary, had in some instances been intercepted.

Q. What person was employed to make the handles to the pikes ?

A. Moody.

Q. What was the figure and description of the pikes ?

A. They were about seven feet in length, the blade about ten inches, and nearly resembling a bayonet, the handles were made of fir. He then stated in answer to particular questions, that Davison had not been long at Sheffield, nor did he at present know where he was to be found ; that Gale also had quitted it about the same time.

Q. Did you ever hear of a night-cat ?

A. Yes, I heard of such a thing five or six weeks before I was taken up.

Q. Can you tell what was the use of it ?

A. Its use, as I understood, was to act against cavalry.

Q. You know not then how it might be employed ?

A. Yes, to hurt the horse by running into his foot.

Cross-examined by Mr. Erskine.

Q. Can you clearly and conscientiously answer, that a Parliamentary Reform was your own sole object while you acted as secretary to the Society from 1791 to 1793 ?

A. Yes.

Q. What is your idea of a Parliamentary Reform ?

A. A more equal Representation of the people in England in the House of Commons.

Q. Had you then no idea by your plan of Reform to destroy the King, or the House of Lords ?

A. God forbid !

Q. Had you no idea from any thing that was said or done, that some individuals in your Society, thought differently from yourself ?

A. No.

Q. Was no specific plan ever pointed out in order to pro-

cure a Reform in Parliament after giving up all thoughts of petition ?

A. None.

Q. Was it ever stated that your object might be carried by force of arms and violence ?

A. Never.

Q. Had such been the case, would you have remained a member of the Society ?

A. Certainly not. I never suspected such to be the intention either of the Society or of any individual in it.

Q. Had you conceived that any of the proceedings of your Society would have effected the safety and honour of the throne, would you have continued a Member.

A. No, I should have immediately quitted the Society.

Q. Did you read with attention all that you signed as Secretary ?

A. In general I did.

Q. After you had ceased to be Secretary, did you still continue to be a Member of the Society ?

A. I did continue to act as a Member all the time that I was taken up.

Q. You never then conceived that any mischief was intended to the Constitution ; you never heard that the Scotch Convention was to put down the King and Parliament, and usurp the functions of the Legislature ?

A. I never had the smallest idea of that sort.

Q. In the support then which you gave to the Convention, you acted upon the principle that Parliament might attend to a great body, though not to a small one, and that your object was more likely to be successfully accomplished in proportion to the number of those by whom it was supported ?

A. Such was the notion I entertained, and from which I acted.

Q. You are then a friend to the British Constitution in its purity ?

A. I am most firmly attached to the genuine principles of the British Constitution.

Q. You had no intention than to bring into this country the desolation and anarchy of France ; you had no intention to put down the King, or annihilate the parliament ?

A. God forbid that I should be capable of entertaining any such intentions.

Q. You had no reason to believe that the tendency of the papers published by your Society was to overturn the Constitution ?

A. I certainly did not conceive them to have in the smallest degree any such tendency.

Q. Did your apprehensions of danger in 1794 arise then

rom the dread of opposition to your views from those in authority, or from the effects of the enmity of those who differed from you in sentiment.

A. We were afraid of persons who thought differently from, us and on that account threatened to persecute us.

Q. In providing yourselves with arms, had you any other view except to maintain yourselves in the peaceable enjoyment of your rights, and to resist any illegal violence that might be offered you ?

A. We never had any other view.

Q. Was it your intention, if your demands should not be complied with, to employ them against the King or the Parliament ?

A. We had no such intention.

Q. Upon what ground did you conceive yourselves entitled to provide yourselves with arms ?

A. From the Bill of Rights, which authorises every Englishman to have arms for his own defence.

Q. From what motive were you induced to give a preference to pikes above any other sort of arms ?

A. On account of their extreme cheapness, which enabled us to procure them more readily than any other sort of arms.

Q. Did you ever hear that laws were to be made or force employed, in opposition to any established authority ?

A. I never heard that any such attempt was in agitation.

Q. Did you not on the contrary, conceive that the reform of Parliament, for which you were contending, would have the effect to put the rights of his Majesty upon a more secure and beneficial footing than ever ?

Here Mr. Garrow interrupted the cross-examination by saying, "Mr. Erskine we do not want at present to have your ideas of a Parliamentary Reform put into the mouth of the Witness."—The Attorney General said, "that he did not concur in the interruption which had been given by his Learned Friend ; that he could have no objection to the question : at the same time he would by no means have it understood, that he conceived that his permission was necessary in order to put any question to a Witness."

Mr. Erskine said, "I am much more disposed to take advantage of the permission of the Attorney General, than to go out of my way on the present occasion, in order to make any remarks on the interruption of the Learned Gentlemen, or the manner in which his disapprobation of the question was conveyed."—He then repeated his question, to which the Witness answered in the affirmative.

Q. Did you ever see the instrument called a Night cat ?

A. I once saw a model of it, but never saw any instruments made after the model. It was shewn to me by a person who said that he had seen it many years since, at Newcastle.

Cross-examined by the Attorney General.

Q. Do you recollect at what period, or upon what occasion you saw this Night-cat at Newcastle?

A. I cannot fix the precise period, but I think it was some time during the American war.

A. You said that you provided yourselves with pikes in order to defend yourselves against the attacks of those inhabitants of Sheffield who differed with you in sentiments; was it from the same motive you sent a number of those pikes to London?

A. We conceived that those Societies in London, who agreed with us in opinion, might have the same ground for apprehension with ourselves.

Q. You say then that you saw only one model of the Night-cat?

A. I never saw any instruments made after that model.

Q. What was the price of a pike?

A. The blade and handle together cost 20d.

Q. Had you no conversation about the pikes, or the manner in which they were to be employed, after the letter which you sent to the Corresponding Society on the subject?

A. No conversation at all, so far as I can recollect.

William Broomhead was next called, and examined by Mr. Garrow. He deposed that he was a cutler at Sheffield, and had become a member of the Constitutional Society there, when it was first instituted in 1791. As to the letter sent to the Corresponding Society, it was always understood that they acted in conjunction with the same views, and upon the same principles; further he knew nothing more, except what appeared upon the face of the letters. He had acted as Secretary to the Society for five months previous to his being apprehended in May. The professed and only object of their institution was to procure a Reform in Parliament; and the sole means to which they looked for this purpose were by meeting together, mutually enlightening each other, spreading the knowledge of the grievances under which they severally laboured, and concerning the least exceptionable means of providing a remedy.

Q. Did you never hear of Universal Suffrage?

A. Never till it was mentioned in the Convention at Edinburgh, to which our Society sent a delegate.

Q. Do you know a person of the name of Henry Yorke?

A. I know a person who goes by that name.

Q. Has he any other name?

A. Yes. Henry Redhead.

Q. Did he attend your Society?

A. Yes. When he was at Sheffield he attended almost every weekly meeting.

Q. In what capacity did he attend?

A. We considered him as a man of considerable abilities, and a powerful orator, and therefore treated him with respect. He wrote several pamphlets at Sheffield, some parts of which he brought in manuscript to my house, where some members of the Society occasionally met.

Q. Did you meet in a small room or in a large one?

A. We generally met in a small room, but there was a large one, in which, on two or three occasions, the whole Society assembled.

Q. Did Mr. Yorke speak from any particular situation?

A. Yes; in the large room there was a chair erected, from which he generally spoke.

Q. What particular name did you give to this chair?

A. I never give it any particular appellation; every man to his fancy;—some called it a pulpit, others a tribune; but as to any proper name belonging to it, I really never understood that it was yet christened.

Q. Do you not recollect a meeting at Castle-hill, at which Yorke was present, and what took place on that occasion?

A. Yes, he had in his hand a book written by Locke, and addressed to those who were assembled. He expatiated on the abuses and evils which had crept into the Constitution, and the deviation which had taken place from its original principles. In this manner of speaking he is warm, energetic, strong, and even violent, and from this circumstance he perhaps, in some instances, went too far, as to his mode of expression, but I do not conceive that he, upon that occasion, said any thing detrimental to the Constitution of England.

Q. Did you take any part in that meeting?

A. Yes; it was agreed that I should make a motion to petition Parliament for the purpose of its being over-ruled, and, in order to introduce another motion in its place—to petition the King.

Q. Did Mr. Yorke speak from any particular elevation?

A. Yes; the chair from which he usually spoke, was carried from my room to the place.

Q. Were there many persons present, and what was the result of the meeting?

A. There were several thousands present. I made the motion as had been agreed; it was opposed by Camage: Mr. Yorke then addressed the meeting on the subject of petitioning the King; a draught of the petition was read, adopted, and afterwards transmitted to Lord Stanhope, who did not chuse to deliver it to the King in the form in which it was drawn up.

A pamphlet was then shewn him, which he stated to be a

copy of Yorke's speech, which he had been requested to print. The printed copy, to the best of his recollection, contained the substance and matter of what was delivered. Two parcels were then shewn him, which he recognized to have been made up by himself, and in each of which he had enclosed a copy of the speech. He had received from the printer some copies of the speech, twenty-four of which he had put up separately in parcels directed to different persons, and sent in a box to Thomas Hardy.

Q. How were you employed previous to your being Secretary to the Society?

A. In working at my business when I had any.

Q. Were you applied to in order to become Secretary?

A. Had I not been applied to, I never should have assumed the office.

Q. Did you derive any advantage from holding the situation?

A. I did; it was necessary to increase my means of support, which had in some measure failed in consequence of the war having destroyed my business.

Q. Did you ever hear in your Society of any proposition for providing arms?

A. It is extremely material that this business should be properly explained. A few days previous to the meeting in which it was spoke to as the undoubted right of every Englishman to provide arms for his own security, an attempt was made in order to excite the Society to something unjustifiable. A spurious hand bill, without a signature, was published and dispersed by night, warning the inhabitants of Sheffield to be on their guard against the dangerous designs of disaffected persons, and to be prepared to crush any tumult which they might wish to excite. In consequence of this attempt to excite alarm and prejudice against us, we deemed it prudent and necessary to take some precautions for our own safety. Such was the motive which first induced us to think of providing ourselves with arms. So little idea had we of employing them for any improper purpose, that we published our resolution on that subject in the public news paper; and I should be extremely happy if the learned Counsel, in addition to the other documents, would produce that printed Resolution, and a copy of the hand-bill from which it originated. For myself I have only to state, that I never saw a pike till I was brought to London.

Q. You say you never saw a pike, did you never see an instrument called a night-cat, or do you recollect any conversation respecting it?

A. I saw a model of what I believe receives that name; an instrument which presents a pike in every direction; it was shewn merely as a boy's play-thing, thrown once or twice

upon the floor, and no conversation passed, except what was entirely desultory and pleasing.

Q. Do you recollect nothing of this pleasing and desultory conversation; did you hear no mention of Newcastle, or the effect which this instrument might produce upon cavalry?

A. I took no notes upon the occasion; the conversation that took place, I again repeat, was perfectly frivolous; the instrument was brought only to be shewn, as a mere play thing; the production of a boy; and I do not remember one word to have passed about either Newcastle or cavalry.

Q. Do you recollect no expressions of Mr. Yorke of rather a more violent nature than any you have mentioned?

A. I was present at some meetings, where this conversation was not so guarded. I particularly recollect, once in the Society where visitors were admitted, that comparing the grievances under which we at present labour to the privileges we formerly enjoyed, he said, "That the country was reduced to the most low and despicable situation, and that for his own part, rather than submit to it, he would go up to London with the people who were present?"

Q. Where was this delivered, and what number might be present?

A. It was delivered from the chair in my room, and the number present might amount to about 150 or 200. I particularly recollect the expression, because I never before heard him utter himself with such violence, and it gave me much pain at the time.

Q. Why did it give you pain?

A. Because I fear God, and honour the King.

Q. You do well. Do you know any thing of that work? shewing a pamphlet.

A. Yes, to the Attorney General.—"This is an account of the manner in which the Fast Day was observed at Sheffield, and a Resolution of the Corresponding Society will be found, in which he thanked them for the communication of its contents."

Q. How many persons were assembled on the Fast Day?

A. Not so many as on the former occasion; there might be between one and two thousand present.

Q. What was the number of your society?

A. About 600, more or less.

Q. Were they divided into sections?

A. The method was advised, but not regularly observed.

Q. Did the Society ever amount to 2000?

A. By no means. The evidence then stated the district books, printed by Gale, were desposed to the different divisions, that they might read them if they thought proper, but chiefly that they might every week contribute a penny for the purpose of the Society. To the particular interrogatory on the

manner of observing the fast-day, at Sheffield, he answered that the hymn to be sung in full chorus was written by Mr. Montgomery; the serious lecture delivered by a gentleman from Halifax; the prayer composed and recited by himself; and the pamphlet, which contained the whole account of the proceedings, printed by Gale, who defrayed the expences out of the sale of the publication, amounting to about five or six hundred copies.

The address of the Society of Sheffield to the people was then read; after which Mr. Gibbs continued to examine the witness, Mr. Broomhead. He said, that at the time the pikes were talked of, there had been a hand-bill published by a party that were opposite to the Sheffield Society. The witness had one of them, and would have brought it with him into court if he thought that any question would have been asked of him upon that point, but the general sense of it was a calling on the people to arm against foreign and internal enemies: answer that was made to it was in the same language. They never would have thought of having these arms had they themselves not been threatened. He himself saw several people going up and down mentioning this, and this was the only cause of something being done or said by the Society concerning arms. Among all those he heard speak concerning the subject, he never understood that these pikes were intended to be used against the constituted authority of the civil power; they were only for themselves in case they should be illegally attacked, as they feared they would take the hand-bill which he had alluded to. He thus understood the pikes to be owing entirely to this wicked hand-bill.

He declared that no idea was entertained of attacking any person or persons whatever; but that, on the contrary, they were themselves under the apprehension of being unlawfully attacked, as some persons had been a short time before at Birmingham.

In consequence of the threats contained in the hand-bill, several resolutions passed in the Society were published the following week; and some of these resolutions as well as the hand-bills he would have brought, had he imagined he should have been questioned in court on the subject thereof. He was firmly persuaded, that the Members of the Society to which he belonged had never harboured the intention of resisting the authority either of the king or the state, and averred that the pikes were only intended to be made use of as instruments of defence.

Mr. Gibbs. Had you, sir, or do you think the Society had any design of attacking the King and Parliament, or in any way of overturning the Constitution of this Country?

A. O, no, sir, I think if they had they would have deserved to have been sent to Bedlam.

Q. Did you yourself entertain any ideas of the nature I have mentioned?

A. No more than I have this moment the idea of *flying up to the sun*. The witness said that one of the objects the Society had in view was a Parliamentary Reform, and for the purpose of attaining that end, a correspondence was carried on with Mr. Stewart, who he understood to be the Secretary to the Society of the Friends of the People.

Upon the last question being repeated, the witness said I understood the object of the Society was this, that they would use their endeavours to have the grievances which had been stated to have existed, redressed in a legal and constitutional manner. Such grievances I say as these—*where a man works fourteen or fifteen hours in the day, and after all is not able to support his family?*

Q. Would you, sir, have continued in the Society a moment, if you were aware that they entertained the least notion of attacking the King, Lords and Commons.

A. Most assuredly not.

Q. Do you think there was a man in the whole Society, so wicked as to harbour such an idea?

A. I do not think there was so wicked a man among them all.

Q. The object of the Society was not to meddle with the King or Lords, but to endeavour to effect a Reform in the Commons House of Parliament.

A. Most certainly that was their object.

Q. Did they not think sir, that the King and Lords with the Commons so reformed, would immediately redress the grievances that were complained of?

A. They assuredly did.

Q. Was it not their object to obtain this peaceably?

A. Most certainly.

Q. You have no reason to think that those persons who might be sent as Delegates to a Convention, would not act in a peaceable manner?

A. None in the least.

Q. When a Reform was talked about, did you not understand that by that was meant a Reform in the Commons House of Parliament?

A. I certainly did.

The cross-examination of this witness was resumed by Mr. Garrow.

Q. Do you not know of the reply sent by the Sheffield Society to the answer of the Friends of the People?

A. No, I do not know of any.

Q. Do you know Ashton?

A. Yes.

Q. Will you undertake to say that Ashton, who had been

Secretary to this Society, was not desired (in consequence of the answer of the Friends of the People, saying that they sought Reform in a legal and peaceable way) to write to the Corresponding Society, disclaiming any further connection with these Friends of the People ?

A. I do not know that Ashton had been desired to send such a letter, or any such had been sent.

Q. Was the resolution to arm intended to oppose that hand-bill which he had spoken of ?

A. No, to oppose foreign and domestic force.

Q. Did they not rather fear similar attacks to those which, had taken place in Birmingham, and yet did they apply to any civil magistrate ?

A. They would have no need for such application until such an attack was made.

Q. How could it be said the Society had no object but Parliamentary Reform, when their public resolutions expressly said they would petition no more ?

A. That resolution was drawn up by Yorke and Gale, and had not been particularly attended to.

Q. Was not the next step, Delegates and a Convention, to obtain what they called full and fair representation ?

A. No ; the next was to petition the King.

Q. Did they not communicate their plan of arming to other societies and places ?

A. I had not, nor do I believe any others had ; nor did I ever hear of it until before the council.

Q. Then if Davidson had written so, it was without your knowledge ?

A. Yes, or that of the Society.

Mr. Attorney General said, he should call the attention of the court to a paper, dated 28th Feb. 1794, which had been already proved, and related to the landing of the Hessian Troops. Part of this paper was read, as were several Resolutions of the Sheffield Society, and the London Corresponding Society, the latter being signed by the prisoner.

The Resolutions of the Corresponding Society, were to the same effect as those we have already inserted ; the first and second of those of the Sheffield Society went to a condemnation of the present war, and the landing of Hessian Troops in this country, and representing the latter measure as contrary to the Principles of the Constitution ; a third was on the mode of erecting Barracks, and a fourth expressed, that peace and freedom were the gift of heaven.

Henry Alexander was next sworn, and examined by Mr. Wood.

Q. Was not you a Member of the Constitutional Society ?

A. Yes.

Q. To what Division did you belong ?

A. To No. 57, held at Robin's Coffee-house, Shire-lane.

Q. Did you know Mr. Yorke, and was he a Member ?

A. Yes.

Q. Do you remember his taking leave ?

A. Yes, on the 5th of November, in a long speech, he said he was going to Belgium, having been invited by some friends, to be at the head of some who were ripe for a Revolution; that he should return before Christmas, and hoped they would be ready to join him, and when the time came, they would not shrink from what they pretended to be, and that they should see the King's and Mr. Pitt's heads upon Temple Bar: that he thought the King and Queen of France had only met their deserts; that the Sans Culottes were brave fellows; that no good could be done without some bloodshed, and that they were a set of brave men at Sheffield.

Q. Did they say any thing about bread and cheese ?

A. No; on a preceding night, that occurred from another person. One from Sheffield came in and said, in that town they obtained pikes for sixpence each, on which one replied, it would only be living upon bread and cheese for one day, and they might have the same.

Q. How was this speech of Mr. Yorke's received ?

A. With universal approbation; and, upon his departure, every one rose to shake hands with him, and wish him success.

Q. Did you remain a Member after this ?

A. Being struck with the impropriety of such proceedings, I went and gave information to Mr. Dundas, and afterwards to Sir James Sanderson.

Cross-examined by Mr. Erskine

Q. Pay, Sir, what are you ?

A. A Linen-draper, in Fleet-market.

Q. When did you first go this Society ?

A. About the end of 1793.

Q. Did you go for the purpose of being made a Member, or for what ?

A. I went along with a friend, who asked me to go to a Club, but without any intention of being made a Member, or even knowing its nature.

Q. Was Mr. Yorke there at this time ?

A. I cannot say.

Q. When was it ?

A. It was on a Tuesday, but I cannot tell the month.

Q. Did you at that time hear any thing that offended you ?

A. No.

Q. What was the Society employed in doing, or what did they converse about ;

A. I did not know any more than that they read some papers.

Q. When did you go next ?

A. I cannot say particularly.

Q. Did you not, upon oath, become a Member of that Society for the very purpose of being a spy and informer ?

A. After I knew what they were about, I certainly determined to give information of their proceedings.

Q. Did you wish for a Parliamentary Reform, or any alteration in the Government, when you first went there ?

A. I wished nothing of kind.

Q. Why did you become a Member then ?

A. I went with a friend without any such intention ; but after I had been there a little time, Smith proposed making me a Member, and I agreed, and on being made, they gave me a paper.

Q. Then neither the contents of the paper, nor the conversation you heard, prevented you from going again ?

A. No, I attended seven times in the whole.

A. On the second did you go as an informer ?

A. I did.

Q. Had you been desired by any person to go ?

A. No.

Q. Then you went purely out of patriotism, and, as a pretended friend, went as a spy ?

A. It proved so at last.

Q. Since you went seven times, and the meetings were but once a week, could you not particularize the months ?

A. No, I cannot recollect ; it was before Christmas ; and I went thrice after I had been with Mr. Dundas.

Q. Then it was not at the desire of any person that you went after the first time, but voluntarily ?

A. Three friends to whom I related what had passed, advised me to give information.

Q. How long have been in business ?

A. I am not in business for myself.

Q. With whom do you live ?

A. I am not in a situation present.

Q. How long have you been out, and with whom did you live last ?

A. I was last a shopman to Mr. Kelleway, in Finsbury-square, whom I left in May last.

Cross examined by Mr. Gibbs.

The witness said he lived in Fleet-Market. He first went to the Society on a Tuesday in the year 1793, but he could not remember in what month, he went there as to a common club, curiosity being originally his principle motive.

Q. Of the members present particularize by name such as you are able.

A. Many were present whose names I am a stranger to.

Q. I presume you may recollect some of them; it so, pray inform the Court and the jury who they were.

A. At the first time of my going to the club, there were present Mr. Smith, Mr. Ashley, and Mr. Baxter.

Q. Who besides?

A. I cannot recollect the names of any others.

The witness said that on the first night of his attendance, nothing passed, which was in his opinion, improper, or likely to give offence. Several papers were read, the contents of which, however, he could not recollect. On the night above mentioned, Mr. Yorke was not there.

In reply to the questions very pointedly put to him by the Counsel, the witness said, that when he became informed of the nature of the institution, and of the end intended to be accomplished, he continued occasionally to visit the club in the capacity of a spy, and with the intention of becoming an informer against the members. When he became a member he said he had no particular anxiety or wish on the subject of a Parliamentary Reform.

Being asked what induced him to become a member of this Society, he said, that at the request of one of his acquaintance he accompanied him to the meeting, where he was asked to become a member to which he readily consented, upon which a paper was read to him, which he took home with him, and on perusing it at leisure, he thought the contents of it of a very dangerous tendency; in consequence of which he went a second time with the design of becoming an informer; but he declared that he did not assume that character at the desire of any person whatever.

Being questioned as to what part he himself took in the proceedings of the Society; he said that he pretended to approve of all that was done; that he took no notes in writing of what passed, and was doubtful whether he should be able to recollect the persons of the members. He said that he had no other motive for becoming an informer than a love for his country; and that upon communicating his design on that head to some of his friends, they approved of his intention.

This witness being interrogated as to his situation in life, he represented himself to have been a journeyman Linen-drafter, which employment, however, he acknowledged not to have fol-

lowed since the month of May, 1793. He gave an account of his way of life for the last five years, during which he had occasionally lived in the service of different Linen-drappers, and was at other times, unemployed, residing with his aunt in the country.

He lately agreed to become shopman to Mr. Manly, Linen-draper, who had recently commenced business in Holborn, at the yearly allowance of twenty-five pounds; but this contract he acknowledged to have forfeited, merely on account of being engaged to give evidence, which he could not have done consistent with the discharge of his duty to his expected employer.

He informed Mr. Manly, that he could not enter into his employ agreeably with his contract, assigning as a reason for departing from his contract, that he was under the necessity of going into the country. He never attempted to secure a situation at Mr. Manly's, by applying for his consent to absent himself from business during the time he would be engaged in attending the present trial. The excuse he made to Mr. Manly, by the pretext of being obliged to go out of town, he said he was induced to have recourse to from the expectation that he should be called upon to go to Sheffield, for the purpose of giving evidence against Mr. Yorke.

Upon being further interrogated by Mr. Erskine, the witness said, that no person had informed him that he was to appear as an evidence against Mr. Yorke; but he afterwards acknowledged that the Solicitor of the Treasury had told him he would be called upon to give evidence on the trial of that person, at Sheffield.

The counsel now resumed his enquiries as to what the witness knew in regard to the meeting of the London Corresponding Society. To these he was not able to give any conclusive answers, except in relation to what has been already mentioned when Mr. Yorke was not present. He said, Mr. Yorke was not present when the pikes were spoken of. Here the examination of Alexander concluded.

Thomas Whitehall was next called. He is shopman to a bookseller. He was intimately acquainted with the last witness, Henry Alexander. Towards the latter end of last year, they went together to the Corresponding Society, and both were admitted members the same night. He only attended four meetings, and declined his visits from no other motive than that of convenience. He remembered seeing Mr. Yorke at the meeting, and that he addressed a speech to the company, the purport of which, however, he did not know, being at a distance from the speaker, and quitting the room before he had concluded. The prisoner's counsel did not cross-examine this witness.

John Whiteson. He said he was a member of the Constitutional Society at Sheffield, before they were classed into Divisions. He had left them some time. He knew Mr. Yorke—he saw him first about a twelve month ago. He saw him at several meetings of the Society—he was generally chairman of them when present. The counsel for the Crown was about to examine the witness, to what was said by Mr. Yorke at one meeting, but upon his stating, that he, Mr. Yorke, was rather intoxicated, he desisted. He remembered the meeting at Castle-hill, in April, 1793, as also the meeting this year in March. The witness was hair-dresser to Mr. Yorke while at Sheffield. He remembered conversing with him on the subject of arms; it was in April, they talked of such being making. The Witness himself made a dozen, or a dozen and half of shafts for pikes. They were seized in his house, and taken away by Mr. Wilkinson the Magistrate. It was generally believed among the Society, that those pikes were intended for use of Self-Defence. Mr. Yorke explained to him, that the Reform to be looked for, was the Extension of the Elective Franchise to *Universal Suffrage*. He himself and the Society, as far as ever he knew, so understood and pursued their object. In progress of time he changed his opinion, upon the propriety and expediency of such a measure: he told Mr. Yorke his idea upon the subject, declaring that such a plan of Reform was, in his opinion, impracticable, and carrying too far; he said he would no longer subscribe to such a measure; to which Mr. Yorke replied, he must then give it up. He remembered the Meeting in April last, in the open air; Mr. Yorke was there, and spoke at considerable length. He was not paid for the pike shafts he had made; he expected to be paid for them only by those who took them of him.

Upon his cross-examination, he said, he was first in favour of *Universal Suffrage*. At that time he was firmly attached to the King and Queen too. He believed all those with whom he was concerned loved the King; he certainly would not have remained of their Society otherwise. He neither then nor now considered *Universal suffrage* as containing principles adverse to the Crown. The famous plan of the Duke of Richmond was that which was adopted by the Society. Among the many publications, his Grace's letter to Colonel Sharman was read at the Society, and adopted by them. A well-known passage out of the letter was read to him by Mr. Erskine, in which his Grace states, that after long and mature deliberation, he was decidedly of opinion, that *Universal Suffrage*, together with *Annual Parliaments*, is the only radical and effectual cure for the evils crept into our Constitution. This, the witness said, was precisely the sentiment borrowed from his Grace by the Society; and he

firmly believed, as far as he could dive in the hearts of men, that this was their only object. He never understood that force or violence was intended. He quitted the Society not from any idea or apprehension of this kind, but solely from his dissent upon the question of Universal Suffrage, as being of opinion that the minds of the people were not as yet sufficiently enlightened, or prepared for it. He was not present when the Society chose a Delegate for the British Convention held at Edinburgh; but if he had been, he would have consented thereto, as approving of the measure at the time. He never understood the object of holding that Convention to be any thing else than petitioning for Reform. From any thing that passed there, he by no means supposed them as intending to assume the functions of Parliament. He then, and now considered the majority of the Society as firmly attached to the King. It was their general idea, that the safety of the Monarch and the Liberties of the Subject are inseparable. He never heard any thing said of using arms for the intent and purpose of attacking the King, and putting down the Government. He himself made the pikes for the purpose of defending himself, if necessary. He did so because there was not a good understanding between the two parties; this he explains as alluding to those who were eager for Universal Suffrage, and those adverse to that measure. It was intended to defend themselves, not against the Magistrates of the country, and the legal force. He had himself been threatened several times in company.

The Aristocrats had said publicly, that if the French invaded the Country, they would first put to death their Domestic Enemies. He believed the Society, had entertained no intentions inimical to the House of Lords. The only book he had ever seen upon that subject, was that written by Major Cartwright. On the whole, he declared himself to be, and believed the Society to be firmly attached to the King and Constitution of the Country. He repeated, that he saw Mr. Yorke at several Meetings, who always behaved with great moderation, excepting the time he was intoxicated.

Henry Hill.—He was a Member of the Constitutional Society at Sheffield from the beginning; he was the second or third Member.—Mr. Yorke visited them in 1792; he was also at the meeting on the Castle-Hill in 1794. The witness, a blacksmith by trade, made a pike from a pattern given him by Davison, which was approved of by him. He also shewed it to Mr. Yorke. He made about one hundred and thirty of them. The iron was procured upon Davison's credit. He had three-pence a piece allowed him for making them. Davison said to him, the pikes might be wanted in London as well as Sheffield; by this he understood them to mean, as

gainst those who might unlawfully attack them. Davison left Sheffield about the beginning of May.

Cross-examination.

He never had in view, on becoming a member of the Society, the opposing the King; nor did he believe that others of the Society ever entertained such an idea. They adopted and followed the plan so ably suggested and promulgated by the Duke of Richmond. He had always heard them say so. The preparation of the pikes was occasioned by the threats of the opposite party. They had carried those threats so far, as to come to the house where he lodged, and which they called the Jacobin House, on account of the Club having sometimes met there, and threatened to pull it down and burn it. They had also paraded the streets with arms, and fired into several houses. This conduct of the Aristocrats of the town, and no other, he swore positively was the reason of their deeming it necessary to provide arms, not for rebellion, but for self-defence.

Thomas Moody. He had been a regular member of the Constitutional Society of Sheffield, for the last twelve months—he had been occasionally so before that time. Besides, their general meetings, they were subdivided into district meetings. He knew Mr. Yorke, who acted as orator, chairman, &c. at different times, particularly at the meeting at the Castle-Hill. There were ten thousand men present. Mr. Yorke spoke there, but he did not hear what he said, as he was at too great a distance. A carriage was brought for him, when the meeting broke up; but the populace took off the horses, and drew him home. Camage brought some pike-blades, and bespoke three dozen handles for them—the remainder of the blades were afterwards sent and fitted. He always understood they were intended for self-defence. There had been rumours, that the opposite party intended, and had threatened to disperse their meetings, either without, or with the assistance of a Magistrate, whom it would not be difficult to procure; and they were resolved to resist such force. He saw in Camage's shop a model of an instrument called a Cat; but at the Privy Council he heard it called a Night-cat. He asked what it was for, and was informed it was an instrument which might be thrown into the street, in order to prevent a horse from passing. A pike was there produced, which the witness said was such as he made. He remembered Davison asking him his permission to have his letters directed to his house, which he consented to. None, however, came so directed.

Cross-examination.

The Cat he spoke of was about an inch long, and was

merely a model—none were ever made from it. It was lying open in the shop, to the view and observation of every passer by. He never heard any expressions made use of in the Society disrespectful to the king, personally; nor did he ever hear mention made of pikes, till the threats thrown out by the Aristocrats. If he himself had an idea that any intent had ever been entertained of using those pikes against the King, or the Government, he would never have been concerned in making them.

John Edwards was called and examined by Mr. Garrow.

Q Do you know the prisoner?

A. Yes.

Q Did you receive any direction from him to any person at Sheffield?

A. Yes.

Q Can you recollect his name?

A. I cannot.

Q At what time was it given by the prisoner?

A. In the month of April last.

Q For what purpose?

A. He said he would enclose a line to a person at Sheffield, who would forge some blades for pikes.

Q Did he so furnish you with such direction?

A. He at the time read part of a letter, and gave me a direction.

Q What was that part of a letter?

A. That a plan had been formed at Sheffield to forge pikes for the people there.

Q What did you do upon that occasion?

A. I understood that several members of the Society wished to have pikes; there was to have been a meeting in Green Arbour-Court in the Old Bailey, to lay down the money for them.

Q How much?

A. One shilling for each blade.

Q To whom did you mention this business?

A. To Spence, Baxter, and Hilliard.

Q Was there any meeting in Southwark to learn the use of muskets?

A. I have heard that there was a meeting in Bandy Leg Walk.

Q From whom did you hear it?

A. I heard it from Franklow, who was a member of the Corresponding Society. This meeting was to be called the Loyal Lambeth Association; the number was to be sixty, when it was full, but I cannot tell for what purpose.

Q Did you hear in any Division for what purpose this Association was to be assembled?

A. I do not know that I did hear so.

Q Do you know what was the dress of this Association ?

A. Yes, I saw Franklow in a blue coat with red collar, white waistcoat and breeches.

Q When ?

A. At a dinner at the Globe Tavern, the 20th of January—the anniversary dinner.

Q Was you at any particular Division meeting ?

A. Yes, the Division, No 22, met at the Three Tuns on Snow-Hill, to the number of sixteen.

Q Was there any proposal to learn the same exercise Franklow had proposed ?

A. There was such a proposal made by me, but no person would second it. It was before the anniversary dinner.

Q. (by the Court.) What was agreed at the Meeting of sixteen ?

A. Nothing at all, my Lord.

Q Was there a secret committee ?

A. Yes, it was dissolved, because it was suspected that Lynam a member, had given information. A new secret committee were chosen, consisting of Martin, Thelwall, Baxter, Moor, and Hudson ; their business was to receive all letters, and communicate what they thought fit to the Society.

Q Was you ever a delegate ?

A. I were delegated to the general committee.

Q Do you know whether the letters received by the secret committee was laid before the general committee ?

A. I do not know ; there was a meeting of the general committee in Compton-street, and at Mr. Thelwall's, in Beaufort-buildings : a deputation was received there from the Constitutional Society, to propose that six from each division, should join the Society, in order to strengthen the general interest.

Q Was this proposal agreed to ?

A. Yes.

Q Do you know Mr. Eaton ?

A. Yes.

Q Was there any thing said about him in any of your Meetings ?

A. Yes ; I remember a proposal to *strike a medal*, and present one to each Jurymen who sat upon the Jury when Mr. Eaton was acquitted.

Q Was there such a medal struck and presented ?

A. I believe not, as it might seem to be interfering with public justice.

Q Do you remember a meeting at Chalk Farm ?

A. I was present. We first went to Store-street, Tottenham-court-road, and then adjourned to Chalk Farm, on account of Justice Addington having been there and forbid the

meeting. There were about two thousand persons present.

Q. How was you admitted ?

A. A person stood at the door to receive the tickets.

Q. What were the proceedings, and what rank of people ?

A. I found several persons of the Corresponding Society, namely, Thelwall, Moore, Lovett and others; the latter took the chair.

Q. Was the prisoner there ?

A. I do not know; I did not see him.

Q. What were the proceedings ?

A. I do not know; for I was in the long room with some Ladies.

Q. Was there any report of what was done afterwards made to any of the meetings ?

A. I do not know, nor have I heard of any report.

Q. Was you at a meeting at Robin's Coffee-house, in Shire Lane ?

A. Yes, it was Divison No 22.

Q. Do you know of any paper being distributed at that time ?

A. Yes.

(A paper shewn)—Q. Was that the paper ?

A. No, it was not of that size.

Q. What is become of that paper ?

A. I have lost that which I received at Robin's Coffee-house.

Q. Do you know the contents ?

A. I believe I should recollect, if I heard it.

The Clerk read the hand-bill—"Speedily will be performed, a Farce, called the Guillotine, or *****'s Head in a Basket."—The remainder was too detestible (as the Lord President termed it) to be admitted in evidence—"To conclude with a Hornepipe, by Bobadil Brunswick."

Q. When did you receive a hand-bill of that infamous description ?

A. It was some time before the meeting at Robin's Coffee-house.

Q. Who did you receive it from ?

A. From Baxter, in October or November.

Q. After the meeting at Chalk Farm, where did you go ?

A. I went to Compton street, and supped with several persons; Thelwall was one.

Q. Did you receive any proposal for arming at that time ?

A. No, never.

Q. Did you know Mr. Ashley ?

A. Yes.

Q. Did he ever make such a proposal ?

A. No; he never made such a proposal.

Q. Was you at the Globe Tavern ?

A. Yes ; Joycé gave a ticket for the feast, which was delivered to me by Thelwall.

Q. Was there a hand-bill delivered ?

A. Yes ; after dinner a paper was distributed amongst the company.

Q. Was there any conversation there about Hessian-troops ?

A. No.

Q. Was you at Robin's Coffee-house when Mr. Yorke made his speech ?

A. No, I was not.

Q. Had you any conversation with Gosling or Hilliard respecting the pikes ?

A. I had not.

Q. What was the price ?

A. The blades were to cost one shilling, and every person was to find his own shaft.

Q. Did you see any of them ?

A. Yes, the one that I made myself—The shaft was then produced without the pike.

Q. What have you done with the blade ?

A. I destroyed it after Hardy was taken into custody.

Q. Had Hilliard a pike ?

A. Yes, he had, but it was a different pike from mine.

Cross-examined by Mr. Erskine.

Q. For what purpose did you make that pike ?

A. I heard there were pikes made at Sheffield, and I accordingly made one for myself.

Q. Why ?

A. For fear of any illegal dispersing of the meetings.

Mr. Garrow. Do you say *legal*?—Mr. Erskine. Answer that Gentleman.

A. No, I said *illegal* dispersion.

Mr. Erskine. Now, Witness, attend.—Upon your oath, before God and your Country, had you any intention to use that pike against the King and Government of this country, or against the Law and Constitution ? (Here was a moment of profound silence)

A. (loud) No, not against the King, or the Government, or the Law.

Q. I again ask you, before God and your Country, did you intend to use that pike for the purposes of rebellion ?

A. No, not for the purpose of any rebellion, or any such purpose.

Q. Do you believe that any such purpose was intended by any of the members of the Societies to which they belonged.

A. I do not believe that any such purpose was ever enter-

tained or intended by any member, at least that I know of.

Q. For what use were they really intended?

A. To defend ourselves at our meetings, as we were continually threatened to be assaulted.

Q. And for no other purpose?

A. No other.

Q. You mentioned in your evidence, in chief, that at a meeting upon Snow-hill, you proposed to follow the example of the Loyal Lambeth Association, and learn the use of the musquet: now did you apprehend or believe that you were doing any thing illegal in making the proposal?

A. No.

Q. At the time of the meeting on Snow-hill was dispersed by the constables, did you apprehend you had done any thing wrong or illegal, or that you were doing any thing wrong?

A. No.

Q. You have said that you made the motion for associating in the same manner as the Loyal Lambeth Association; was that the fact?

A. Yes; but as no member seconded me, the motion dropped.

Q. Did it seem to be cordially received?

A. By no means.

Q. Now, witness, I desire you to attend—look at the prisoner; have you ever seen him at any of the meetings?

A. Yes, frequently.

Q. Did you ever observe him to be disloyal or troublesome, or disaffected?

A. No, by no means; he never spoke at the meetings; I always looked upon him as a very quiet good kind of a man.

Q. Did you ever hear the prisoner speak in praise of that detestable hand bill which was just now read?

A. No, I never heard him speak a word about it.

Q. Do you believe that Mr. Hardy would have given countenance to such an execrable production?

A. No, nor do I believe that, by any means, he would have approved of it.

Q. Do you think that he is disloyal to his King, or wishes to destroy the Constitution?

A. No.

Q. Did you ever hear or believe that Mr. Hardy, the prisoner, did, by his actions, give countenance to any measure that tended to destroy the Constitution or the Government?

A. No.

Q. Of the King?

A. No.

Mr. Erskine I have done with this witness.

Mr. Garrow. re-cross-examined the witness without any material effect.

The next witness was Mr. Samuel Williams, by trade a gunmaker, who upon the application of Mr. Hardy, became a member of the London Corresponding Society. He was accustomed to buy what shoes he had occasion for of Mr. Hardy, and had sold some musquets to him. At the desire of Francklow, who he understood was raising an association, he went to the house of Mr. Speince in Holburn, for the purpose of instructing the members of the Loyal Lambeth Association in the use of fire arms. He supplied this society with eleven musquets, complete with bayonets, for which he was paid by Mr. Hardy.

Mr. Sauderson proved that Franklow was a member of the London Corresponding Society, of which he knew Hardy to have acted as Secretary.

Edward Gosling became a member of the London Corresponding Society, in April 1794, not by immediate direction of any magistrate. Was introduced by Hilliar, became a member to discover if they had any intention of arming. Communicated from time to time with Mr. Wickham, a magistrate. Heard them on the first night talk of arming as the French had done, to defend their Convention, but their minds being much heated, did not think much of their being serious. He entered into an account of what he heard at Chalk Farm. A person who he was told was Thelwall, spoke of the infamous and ever to be detested Court of Justiciary of Scotland, and of repelling force by force, if any attempts should be made to introduce the Scotch law into England.

At another meeting, he heard of relieving Dr. Hodson, and went with Hilliar to see Hodson the next day in Newgate. Hodson talked of not dividing the Society, for the convenience of guarding against spies, and learning the use of arms. A Frenchman, Rouselle, who was present, said, when, the Society was ready to act money would not be wanting. A toast was given: "The world a Republic—or a Dessart." Hodson said, he hoped to see a Revolutionary Tribunal established in this Country; and that he despised all others.

The same evening, a meeting of the 11th division, Wright, the Delegate, said that he had got his musquet, and that it was necessary they should all get arms, as they might soon have occasion to use them. Gordon, the Secretary who was going to America, said, he was sorry to leave them, when they were going to act, as well as think, and regenerate their country. Hilliar said he had got a pike.

Afterwards in Bishopsgate-street, he heard they had determined at Sheffield to petition Parliament no more. The

letter stating this contained a drawing of knives, with this observation, "these are the instruments we must soon use." It was said the principal dependance of the Society was to secure the Royal Family, and the members of both Houses of Parliament, that if they should resist the first shock, there would be no danger from the military, for wanting a head to look up to; they would readily accept of additional pay. No objection was made to this by the hearers, one of whom was in liquor, and the other two sober.

Baxter told him that Joyce, Earl Stanhope's Secretary, reported there was no fear of Stone, for he was too sharp for them to get any thing out of him by intimidation. It was said that one Moore had been particularly successful in getting over the troops, and that the old soldiers in Westminster were the most easily got over.

Baxter asked if the witness knew any friends who would purchase a pike, and said if he asked for Edwards at a place in the Old Bailey, he should have a pike, and be taught the use of it along with others. The witness said he thought a Parliamentary Reform might be obtained without bloodshed.

Baxter said, "There is not a man in the Society who believes that a Parliamentary Reform is all we want."

They did not wish to do any harm to the King, or any of the Royal Family. It must be expected that some blood must be shed, as insults had been offered to the people which flesh and blood could not bear. He said that many thousands of pikes were making at Sheffield, but they were to be stocked in town. He was cautious of speaking out, because there were spies in the Society. It would be advisable to let the French prisoners out of goal. He mentioned Mr. Pitt, Mr. Dundas, and Mr. Reeves, as three of the persons who had insulted the people past bearing. He said that he was to sound the army at large on the hardships of their situation and smallness of their pay—if he found them aristocrats, he was to desist.

Gosling concluded his examination in chief, by saying, in answer to a question from Mr. Garrow, that he had attended all these meetings for the express purpose of giving information.

Cross-examination by Mr. Erskine.

Q. What do you say is your name ?

A. Edward Gosling.

Q. What is your employment ?

A. I am employed by Mr. Justice Colquhoun, at the Office in Worship-street, and have been since the month of September or October last.

Q. What was your employment before that ?

A. I kept a broker's shop.

Q Was you not in the habit of buying government stores ?

A. I never to my knowledge bought any stores belonging to his Majesty in my life.

Q Recollect yourself—Did you never own that you used to buy the King's stores ?

A. I never did buy any. I own I said otherways. I said to Mr. Worship, that I dealt in buying stores. I said so because I wished to deceive him as to my real place of abode, which I thought might give him suspicions.

Q Did you never say that you would think no more of cheating the King than of guillotining him ?

A. I never said so.

Q Will you swear that you never said so ?

A. Never to my knowledge.

Q Did you never go by the name of Douglas ?

A. I will explain to you how that was.

Q Answer my question, Sir, you shall afterwards explain your reasons. Did you not go by the name of Douglas ?

A. I did.

Q How long ago ?

A. Some years ago ; about ten years.

Q How long did you go by the name of Douglas, and what trade did you then follow ?

A. I went by the name of Douglas for seven years, and kept a hair-dressers shop, at No. 3, Petty France. It is necessary I should explain my reasons for changing my name. My father was a wig-maker in the city ; I wished to go for improvement to the west end of the town. I went to work in Bloomsbury, but my pride would not let me go by my own name to work as a journeyman, when my father kept four or five journeymen himself. I took the name of Douglas by mere accident : it was the first name that struck me in a play bill.

Q And how long did you play the part of Douglas ?

A. Seven years.

Q Do you know Mr. Lincoln ?

A. I do. He collects rents for Mr. Macnamara.

Q Did you ever borrow any money from him ?

A. I see to what the question tends, and I ought to explain the transaction. Mr. Macnamara came to me—

Q I desire that you will answer my question. Did you ever borrow any money from Mr. Lincoln ?

A. I did. I borrowed 10l. or ten guineas, or some such sum, five or six years ago.

Q Did Mr. Lincoln see you by accident at the London Coffee-house ?

A. Mr. Macnamara saw me, and we had a conversation, and I was so confused, that I do not know what I said to him.

Q Did he not call you by your name of George Douglas ?

A. He said that he came out of humanity ; as he was in-

formed I was to give evidence by the name of Gosling; my bill to Lincoln by the name of Douglas was to be exhibited against me. This was on the stairs where the witnesses were: I said that was no place to talk about the Bill.

Q. You said, that you had told Mr. Worship that you dealt in buying King's stores. I call upon you to say, upon your oath, whether you did not say, that you would think no more of cheating the King than of guillotining him?

A. Never in my life.

Q. You never did?

A. Never.

Q. Now, Sir, take care what you say; I call upon you to say, on your oath, whether you did not go about these Societies, using yourself the inflammatory expressions which you this night attributed to others, trying to excite them to violence; and that you were frequently checked in doing so?

A. Never, to my knowledge. No; never.

Q. Recollect yourself. Did you never, in these Societies, use such expressions as these—"We must arm ourselves; we must learn the military discipline; we shall never do any good without arms?"

A. Never, to my knowledge.

Q. You must know positively, whether you did or did not use these expressions?

A. Never that I remember.

Q. You swear positively that you never did?

A. I do swear positively, I never did.

Mr. Erskine—That is an answer. Take down his words, Mr. Clarkson.

Q. Do you know a Mrs. Colman?

A. I did know a Mrs. Colman. She rented a shop from me, and died at my house. I buried her.

Q. She left a will, did she not?

A. She did.

Q. And you wrote the will?

A. I did. Her property was to be divided between a Mr. Burrows and a Mr. Leach.

Q. You was very ill-used upon that occasion; was you not?

A. I do not recollect.

Q. Did you not get into some trouble?

A. Not that I remember.

Q. What, sir, was there not a complaint made against you for fabricating that will?

A. Not to my knowledge.

Q. What, do you not know whether a complaint was made against you?

A. I do not remember.

Q. Pray, sir, who is Leach, to whom the property was left?

A. My wife's son.

Q. How long did she live at your house before she died?

A. I do not recollect.

Q. Was it a twelvemonth?

A. I cannot tell.

Q. Was it six months?

A. I cannot say.

Q. Was it a month?

A. More than that.

Q. Two months?

A. More.

Q. Three months?

A. More than that.

Q. Was it four months?

A. I cannot answer to a month.

Q. I call upon you again—Was there no complaint made against you for fabricating that will?

A. Never, to my knowledge.

Q. Good God! do you not know certainly whether you were charged with a capital felony!!!

A. Never, to my knowledge.

Q. Answer positively. Was you not accused personally to your teeth?

A. Not that I know.—Her brother came to town about it.

Q. I desire that you will say upon oath, Was there never a complaint made to you on the subject of that will?

A. Never.

Q. And this you directly swear?

A. I do.

Mr. Erskine desired these words also to be taken down.

Q. Do you know a Mr. Cox, a cheesemonger?

A. I dealt with him for cheese and hams.

Q. What, for your family?

A. No; to sell.

Q. I thought you was a hair-dresser?

A. I drest my customers, but my wife sold cheese and hams, &c. I dealt with Mr. Cox, but the hams were of a bad quality, full of dirt and stones.

Q. Am I to understand you, that you never dealt in stores?

A. Never. I have bought old cordage, paper stuff, and such like.

Q. Did you never say, you was a dealer in *raw materials*, and when asked the meaning of this—That you attended the Government sales, and bought them for one fifth of their value, by bribing the keepers to condemn them?

A. No.

Q. Did you not tell Mr. Hilliar that you had been in the constant practice of cheating the King in this way?

A. No. I said I had been trying to discover the frauds in this way, in order to give information.

Q. Did you not tell Mr. Hillier that copper was conveyed out of the King's stores in butter firkins?

A. I said I heard so. I had been employed to make inquiries.

Q. Oh, you was employed in this way also. Did you not say that there was a woman in Tooley-street in whose premises 1200 cwt. of stolen copper had been found?

A. I perhaps did say so: I wished to find out all this for Mr. Colquhoun.

Mr. Erskine then asked him to state from his notes accurately, the dates of all the different meetings where the expressions had been made use of which he had given in evidence; and this he did; And after pressing him again to swear positively that he had heard those expressions made use of, the cross-examination closed.

Mr. Garrow then asked him whether the remainder of the sum due on his note to Lincoln had ever been demanded, untill Mr. Macnamara discovered him at the London Coffee-house? He said, Mr. Lincoln called upon him some time ago, but not since. Mr. Garrow made him repeat the conversation with Mr. Macnamara, and concluded with asking him, whether the transaction of Mrs. Colman's will was a fair and honest transaction on his part?—He said it was.

It being half past one o'clock, the Court then adjourned to eight o'clock next morning.

Friday, October 31.—Fourth day.

The court having met at nine o'clock, Mr. Attorney General produced two papers which had been seized in the house of Roussel, who is now confined in Newgate, and it was proved that he was a Member of the Constitutional Society. These papers seemed to be brought before the court for the purpose of implicating Roussel in the charge of a treasonable conspiracy. The first paper was a small pamphlet, containing directions for learning the manual exercise. This was proved to have been printed previous to the arrest of the prisoner, and was deemed legal evidence. The other was a song, and after it had been read, it appeared to have been found *after* the apprehension of Hardy, and being therefore declared not to be legal evidence, the Court admonished the Jury to endeavour to expunge from their minds all knowledge of the existence of this paper.

Several papers found on Thelwall and Martin were produced, and judged to be good evidence, as they had relation to the transactions at Chalk Farm, and appeared to have been prepared for the purposes of that meeting.

John Groves being sworn, he represented himself to be a

conveyancer, but afterwards, upon being questioned closely by the counsel for the prisoner, admitted that he was accustomed to act in the capacity of a solicitor at the Old Bailey.

He attended the meeting at the Globe Tavern on the 20th of January last, at which time he was not a Member of the London Corresponding Society, but was admitted into that Society in the early part of the following month. He said that, by the desire of a gentleman high in office, he procured himself to be admitted a member, for the purpose of observing what was going forward, and of giving information of the same.

The meeting on the 20th of January was numerous, and Mr. Martin being voted into the chair, he read a paper which he called an Address, the general purport of which was in recommendation of universal Suffrage and annual Parliaments, to be obtained by enlightening the minds of the lower orders of the community, by instructing them in what the natural freedom of mankind consisted. He added that the mode of communicating the information proposed in the Address, was by the distribution of Papers and Pamphlets adapted to excite their attention, and convince their minds by rational argument.

Mr. Gibbs contended against the admissibility of the evidence given by the witness, on account of no names having been mentioned.

The Lord Chief Justice said, that if the witness knew the names of any of the persons present at the meeting, it was his duty to mention them; but it was impossible for the court to make him mention the names of persons if he did not know of any.

Groves now proceeded in his evidence. Several resolutions were passed with the general approbation of the company, among whom he heard nothing on the subject of fire-arms.

The witness had two or three times attended the Lectures delivered by Thelwall at his house in Beaufort Buildings, in the Strand, which he represented as containing a general abuse of administration; as treating every branch of the Legislature with contempt and ridicule, and holding up his Majesty as an object of derision.

Being asked whether he recollected any particular reproach applied to the King, he replied that he once heard his Majesty described under the title of King Solomon. It was the custom of Thelwall to speak of the House of Lords as an aristocratic assembly, which absorbed all the other branches of the Constitution. He recommended the Convention as the only eligible means of new modelling the Government, and rescuing the country from ruin; and stated, that in a Convention the genuine sense of the People would

be collected through the medium of universal Suffrage and annual Parliaments.

He was present at a very numerous meeting at Chalk Farm, on the 4th. of April, but at that time he was acquainted with the persons of but very few who attended, though he has since known many of them. He knew that Lovett acted as Chairman at the meeting at Chalk Farm, and that Hardy attended the meeting.

At this meeting a letter from the Society called the Friends of the people was read, and was at first received with general silence, which was succeeded by some persons expressing their disapprobation by hissing. The witness said the proceedings of the Society were read, as well as a string of resolutions. (For the resolutions see page 56 and 57.)

Groves said that the place originally appointed for the meeting was in Store-street, Tottenham Court Road, where he met Thelwall, who informed him that the Society had been under the necessity of changing the place of meeting from Store-street to Chalk Farm, in consequence of an interruption being apprehended from the Magistrates.

He accompanied Thelwall to Chalk Farm, where Mr. Lovett took the chair, but on whose proposition he did not know. The principal speakers at this meeting were Lovett, Thelwall, Richter, and Hodgson. A clamor was raised that there were spies and informers among the company. Thelwall proposed admitting all persons, spies or otherwise, as the assemblage of a great concourse of people would be disagreeable to the ministry. A number of Resolutions (for the resolutions see page 56 and 57) were read by Richter. While the resolutions were reading the words *British Senate* were objected to. Hardy spoke but five words, and those while the draft of an address to Joseph Gerrald was reading. The words spoke by Hardy were, "Read, Sir, but without Comments."

Mr. Law asked the witness whether he heard Mr. Thelwall make use of any remarkable expression, to which he answered in the affirmative.

Q. What was it you heard Thelwall say ?

A. At a meeting of one of the Divisions of the Society held in Compton-street in the evening of the Day of the meeting at Chalk Farm, he took a pot of porter in his hand, and striking off the froth on the top of it with a stick, said, thus I would serve all Kings, or thus I would have all Kings served, I am not sure which he said.

Q. Did you here any seditious toasts drank ?

A. Yes, several ; and some of the members spoke very contemptuously of Parliament.

Did you see any knives made on a new construction ?

A. I did. I went to cut some bread and cheese under a shed, prepared for the occasion, and I was surprised to see

several members pull knives out of their pockets to cut with.

Q Describe them.

A. They were French knives, and had a spring that prevented them shutting when once opened. One of the Members observed, these were good instruments for cutting bread and cheese; upon which there was a general smile around.

Q Did you see Green there?

A. I did.

Q Did he say any thing that you took notice of?

A. He said that his wife was a d—d Aristocrat.

Q Did you ever see this paper, called the "Rights of Swine?"

A. I did. It was ordered to be printed and circulated at the Societies.

Q Were you present at the meeting at the Crown and Anchor Tavern in the Strand, on the 2d of May, 1794?

A. Yes.

Q How came you to go there?

A. Between the hours of nine and ten o'clock on the preceding night, Mr. Hardy came to my house and left a ticket for me. I saw 7s. 6d. marked on the back of it, and offered to pay him, but he would take nothing.

Q Were any, and how many, of the Members of the London Corresponding Society present?

A. I think I may say twenty.

Q What passed in the meeting?

A. Before dinner, some bad news arrived, very unfavourable to this country, and it seemed to give universal satisfaction. When the company appeared, *Ca Ira* struck up, amidst repeated applauses and acclamations; then the Marseillois Hymn and the Carmagnol were played. I am sure the hands of the Gentlemen must have been sore with clapping, and their ears stunned with the noise. Mr. Tooke, I think, was in the chair. Mr. Wharton, Lord Daer, Mr. Sharpe, Mr. Frost, Mr. Moore, Mr. Pierce, Mr. Jones, Mr. Hilliar, and others were at the dinner. *Ca Ira* was loudly encored.

Q Did Mr. Tooke make any speech to the company after dinner?

A. He did and I paid particular attention to it.

Q What was the purport of Mr. Tooke's address to the company?

The witness here gave an analysis of Mr. Tooke's speech. He called the House of Commons a foul sink of corruption. He reviled the newly created Lords, represented them as a reproach to the peerage, and asked what claim that *Skip-Jack-Jenkinson* had to hereditary nobility. He represented party as a juggle and combination against the liberties of the people. This speech was received with the greatest applause.

Cross-examined by Mr. Gibbs.

The witness said he was a conveyancer, and not an attorney. He denied that he was a Solicitor in Chancery, but after much fencing with the counsel, admitted that he was an *Old Bailey Solicitor*, although he did not rightly comprehend the import of the expression. In consequence of an intimation from a gentleman high in office, whose name he did not chuse to mention, unless *compelled* to do it by the Court he attended.

Mr. Gibbs insisted upon knowing the authority under which he acted.

Mr. Law said the Court was bound to protect the channels of information. It was sufficient if the witness acknowledged the purport of his mission.

Mr. Gibbs. You went there then as a *spy*?

A. I have no objection to that appellation, if you like it.

The Court thought it indecorous for counsel to use *nick-names*.

The witness proceeded. He confessed he had not ceased to practice at the Old Bailey, but latterly business had been very *slack*. At the time he attended the meeting at the Globe, he was a stranger to almost every person in the room, and on that account he could not speak to what had been advanced by every individual. About five hundred members attended.

He was asked whether he was acquainted with any person present? He replied in the affirmative, his name was Walsh, and he believed him to be employed by Government.

Mr. Gibbs then asked, whether he was not a spy? The witness said, most assuredly, but still denied that he himself came under the description of a spy. The witness was then asked, whether he was not afraid of a brother spy? To which he answered No, for *Mr. Thelwall* had declared they ought to be treated kindly during their stay. His reason for not acknowledging that he knew Walsh to be a spy, was that he might not incur suspicion, and frustrate his object; the man was indeed too notorious to be concealed! About four or five thousand persons, he believed, might be present at this meeting.

With respect to meeting at the Crown and Anchor, to his astonishment it was composed of some of the most respectable characters in the country. *Tooke* spoke very highly of the hereditary nobility, and paid them a number of compliments. He said, their proper influence had been very much diminished, and their nobility sullied by the great influx of new peers, that they were introduced into the House of Lords by those persons he had been reprobating in the Commons. He spoke of the king with the greatest respect; and he (the witness) recollected this the better because, he said, the Mi-

nistry had coalesced with the new nobility to amuse, or abuse that poor man, who had lost his due weight in the State, by that combination.

Gurnell identified a song found at the prisoner's house, which had a tendency to excite the people to insurrection.

Dobson produced a pike found in Hillairs possession on the 29th of May.

Camage said he was at Edinburgh, when the Convention was dispersed. He visited Margarot in the Talbooth, where he saw a French knife of a large size. In his cross-examination, he said, Mr. Margarot had no other knife to cut his victuals with.

Lynam, an ironmonger, and delegate of the London Corresponding Society, gave a history of several divisions which he had visited. The prisoner, he believed, was Secretary to No. II. In that division on the 29th of October, 1792, Mr. Paine's Address to the French nation, was read, and ordered to be printed for the use of the members; at another meeting when he was present, a report was brought by the delegate, stating, that the Address which had been recently transmitted to the Convention of France, was received, and copies of it ordered to be sent to the eighty-three departments.—The witness entered at large into the proceedings of a number of the divisions, which he appeared to have visited for the purpose of collecting intelligence.

The witness, who stood avowed as a person employed by Government, went through a detail of his minutes, taken at several meetings of the delegates and divisions. The contents of his *porte feuille* proved, however, of little importance, though it occupied the attention of the Court for several hours. We shall fairly state, with all the strength which belongs to them the prominent points of his evidence.

At a meeting of delegates on the 5th of Feb. 1794, a proposition was made by Mr. Baxter, one of the parties included in the present charge, to pay out of the quarterage 6d. to the Society and 7d. to the people of Spittlefields, for the purpose, as was stated, of keeping them together. It was also intimated, that the Friends of the People did not go far enough for their purpose, and that there must eventually be a struggle.

At a subsequent meeting, it was resolved, that the surplus of the receipts should be appropriated to the 16th and 25th divisions, the members being extremely poor, but, as Mr. Margarot observed, they would be of use "in case of a war." The witness was asked his ideas of this expression.—He understood it to mean a rising of this country against its government.

A letter was read in this meeting from Sheffield, stating the necessity of a general petition to Parliament. Mr. Margarot said, that they were here "getting FAST again;" that this was not the mode. But that however the petitions should be signed to keep the public attention alive to the subject.

Much of the remainder of this detail consisted of the increasing numbers in the different societies—of the dispositions of the quarterly contributions, and of the organization of the affiliated societies.

It was mentioned in one of the meetings of delegates, that Mr. Fox had stated in Parliament, that the people had a right to alter the Constitution, and that the Aldgate Society had even voted him thanks for this maxim. It was observed, in confirmation, that the Scotch and Irish Conventions had actually proceeded on this principle.

It was in consequence determined in the meeting of delegates to send a circular letter, praying the opinion of the other societies with respect to the best mode of reform. Similar letters were to be sent to Sheffield, and to the other provincial societies.

At the division, No. 12, Lord George Gordon attempted to interfere by means of Mr. Watson his Secretary, but it was determined that in their pursuit of reform they should have nothing to do with so troublesome a person.

A Society, in Holborn, called the Gotham Society, at this time declared their sentiments for Republicanism. It was dissolved shortly after, and its acting members joined the London Corresponding Society.

On the 15th of February, the Friends of the People, of what designation the witness did not remember, wrote "that they would not give up the powers of acting to any other Society, but they hoped that the time of action was not far distant."

On the 20th of February, at a meeting of the delegates, their thanks were ordered to be given to Mr. Erskine, for his efforts in favour of the Liberty of the Press; to Messieurs Fox, Sheridan, Grey, and the glorious Minority of 52; and of Lords Stanhope, and Lauderdale, for their exertions in the cause of Freedom.

At the same meeting Mr. Gerrald offered to draw up a petition to the House of Commons for a Parliamentary Reform! to call on Mr. Mackintosh, and in company with him to present it to Mr. Fox, to be by him offered to the consideration of Parliament.

At the subsequent meeting of the delegates Mr. Margat proposed that a thousand of Mr. Friend's pamphlet, addressed "to Republicans and Anti-Republicans," should be printed with strong comments.

It was agreed that letters should be sent to the different Societies, to quicken their petitions, and that bills should be stuck by night, to inform the public where those petitions lay for signatures.

The witness then proceeded to state from his notes the particulars which passed at a dinner held on the second of May. These, however, amounted to nothing more than a recapitulation of the toasts, the most prominent of which were,

May Despotism be trodden to pieces under the hoofs of the Swinish Multitude.

The Universe for our Country, and Philanthropy for our Religion.

May the Temple of Liberty have no basis but the Earth, and no dome but the Skies.

THOMAS PAINE.

May Governments cease to be a conspiracy of the Few, against the Many.

JOHN HORNE TOOKE, and thanks for his opposition to Despotism.

The Victims of Despotism, and spirit to redress their injuries.

Lord Sempill, &c.

At nine o'clock that night a letter was received from Mr. Fox, declining to present their petition. This letter was addressed to Mr. Hardy. Mr. Fox said, that as "radical reform, by which it was generally understood "universal representation, was included in the terms of their petition; he thought it would come with better grace from any other Member." To that principle he had always been an avowed enemy.

It was immediately resolved, that Mr. Francis be requested to present the petition.

Mr. Lauzun was called in to identify this letter of Mr. Fox, as having been found in the house of the prisoner, and it was accordingly received in evidence.

The Court adjourned for an hour, and upon its being resumed, the witness proceeded.

At a meeting held on the 23d of May, it was proposed that

a general Assembly of all the Societies should be held. This proposition was declined, in consequence of a letter from Mr. Littlejohn, stating the substance of a Letter from Mr. Le Brun; and the apprehension that a suspicion might be entertained of the Society holding a correspondence with France, Mr. Hardy moved an adjournment, which was not carried,

In a Meeting on the 6th. of June, a vote of thanks was proposed to Mr. Wharton, for his proposition in the Commons, to restore the Constitution to its purity, according to the Rights atchieved in 1688. In the following Meeting this motion was adopted, and he was recommended to persevere, in despite of the contumelious silence of the Majority, in the full assurance, that it would have its due weight with the people.

The witness ceased to be a Delegate from this period. He was present at a Divisional Meeting in the month of September, 1793, when an Address to the King was pronounced treasonable by Mr. Vaughan, and another ordered in consequence to be presented.

The witness said, he was at the Globe Tavern at a dinner, at which Thelwall and the prisoner were present; but he did not recollect that any thing material passed upon that occasion; he acknowledged that he attended this and other assemblies as a Spy upon their conduct: he was also present at several meetings of the Members of the London Corresponding Society, when the prisoner and several Delegates attended: At one of these meetings a motion was made by Thelwall, that a permanent Committee should be appointed to consider of the measures necessary to be adopted during the then posture of affairs; he said his object in attending these meetings was to communicate information to persons in authority, of their proceedings. With this view he had procured himself to be a Delegate; he was suspected by some of the members of infidelity and treachery; and was tried, but as he stated, honourably acquitted: he underwent a short examination by Mr. Erskine, which gave rise to a very long and uninteresting argument upon the legal admissibility of a question, which terminated in the rejection of it.

A Paper was then read in evidence, in which taxation, according to the present mode of representation, was described to be robbery, and a submission to it, the most abject slavery.

This Paper was found in the possession of the prisoner.

Another Paper found in the prisoner's possession, pointing out the grievances, under which the people laboured, and the necessity of a Parliamentary Reform, was also read in evidence.

John Coates was then called, and examined by the Attorney General.

Q Do you know Mr. Franklow ?

A. Yes.

Q Are you an apprentice to him ?

A. I am.

Q What trade is he ?

A. A taylor.

Q Did he not live in Lambeth ?

A. Yes.

Q How did he use to employ his nights after he was done work ?

A. He generally went out, and stayed late.

Q Was there any thing going on up stairs in your master's house in an evening, after they had done work, and what ?

A. I have frequently noticed some persons coming, who employed themselves in the military exercise.

Q Who were they ?

A. I only knew two of them, whose names were Williams and Kil'adine.

Q Was it Williams the gunsmith ?

A. It was.

Q What was the number of persons who used thus to assemble ?

A. About eight.

Q Do you mean to say eight at a time, and were they always the same ?

A. I thought so.

Q At the times of these exercises, did they keep the windows open or shut ?

A. Shut.

Q What do you mean, the windows down, or that nobody should see into the room by means of curtains or shutters ?

A. The shutters always closed.

Q At what time did they generally come ?

A. About eight o'clock.

Q Did your master go to any other place ?

A. Yes ; sometimes to Worcester-street, in the Borough.

Q Did he go there to exercise ?

A. I do not know.

Q Where were the arms kept ?

A. In the first floor.

Q Did you see any of them laying about ?

A. I was not with my master when he was taken up, nor did I see any of the arms after.

Q Where were the cartouch boxes kept ?

A. In the cutting room, and I have heard my mistress say —

What she had said was deemed inadmissible evidence.

Q. Did you ever see your master in his regimentals?

A. Yes, I have.

Upon his cross examination by Mr. Erskine, the witnesses said that the clothes he had described as regimentals, consisted of a blue coat turned up with red, and a white waistcoat and breeches, and that he never saw his master in this dress but once, and that was on a Sunday morning in his own house. And he said the cartouch boxes he had spoken of were not concealed, but lay open upon the shop-board.

Cross-examined by Mr. Erskins.

Q. You have told the Court that you have seen your master in his regimentals; now, sir, did not those regimentals, a you call them, consist of a blue coat turned up with red, and a white waistcoat and breeches?

A. They did.

Q. When he was dressed, was it not publicly?

A. I never saw them on but once, and that was on a Sunday morning in his own house.

Q. Did the other persons whom you have spoken of wear regimentals?

A. I do not know.

Q. The cartouch boxes you have mentioned, did they not lie open on the shop board?

A. They did.

John Walsh was at Chalk Farm, heard the word Convention there, but the confusion was so great he knows not from whom. Heard also of corresponding with other Societies, but knows not for what purpose. Heard the resolutions read and ordered to be printed. Heard nothing of arms.

Thomas Green, manufacturer of perfumery. Has dealt in cutlery ever since he was in business. Had from Sheffield three dozen of knives with a spring to prevent their shutting when opened. Sold fourteen of these, and one of them to the prisoner. He gave the prisoner six to choose out of, and got back four, after the prisoner was apprehended. He sold one to Billings, and one to Groves. He ordered the knives from Sheffield, on a pattern shewn him by a rider. Remembers seeing a member of the Corresponding Society in Compton-street eat his supper with one of them. The witness produce one of the knives which he said was of a sort to be seen in any shop. He had had one of the same sort for seven years.

Cross-examined.

Mr. Erskine.—Were these knives of a new pattern?

A. By no means, they are very common.

Q. Did you understand them to be knives particularly adapted to any mischievous purpose?

A. By no means, but useful knives for common purposes.

Q. Did you believe those who bought them of you, thought them peculiarly adapted for bad purposes?

A. By no means; if I had I would not have sold them.

Q. Have you any of them left?

A. About twenty out of three dozen.

I'm glad of it, I'll buy one of them myself.

Q. Had you any conversation with Groves on the subject of the knives?

A. Groves brought one, and said it was a very useful knife.

Q. Did you tell Groves that you sold several hundred knives, and to speak low, for that the parlour door was open, and your wife was a damned aristocrat?

A. Never.

Q. I think it proper to inform you, that Groves has sworn so?

A. I never made use of any such expression.

Q. Do you mean to swear, after being told what Groves has sworn, that you never made use of any expression implying secrecy with respect to the knives?

A. I do say so upon my oath. The knives lay in an uncovered glass case in my shop, and in the window, like other articles for sale, and were concealed from none of my family.

Edward Hudson was next sworn. Having looked at a paper he said he received directions from a member of the Corresponding Society to print it.

This paper was read, and the purport of it was to recommend the people to procure arms, and learn the use of them.

Upon his cross examination, the witness said he had been a member of the London Corresponding Society for above three months, but he declined giving his attendance from the time of the prisoner and Mr. Adams being apprehended. While he continued a member, he had no reason to imagine the Society had any other object in view than to procure a reform in parliamentary representation by legal and constitutional means. He never heard or supposed it to be the intention of the Society to depose the King, or commit any act hostile to government.

George Ross sworn. He was a member of the Friends of the people at Edinburgh, and also of the British Convention, having been also delegate from the latter. He deposed that the members of the Convention never meant to resist the authority of the King or the Government; that the members were people of sober and discrete lives, who, in their endeavours to procure a reform in parliament, did not suppose they were acting against the principles of the Constitution.

Arthur Mc'Quire was a delegate of the British Convention in Scotland. After the dispersion of the Convention, a com-

mittee of Union was established, of which Watt was a member; he likewise was of a committee of supply conjointly with Downie and the present witness. In this latter committee Watt proposed to read a plan for seizing the Lord Justice clerk of Scotland, the Lord Provost, and the Lords of Council and Session.

He stated the further particulars of Watt's plan to set fire to the Excise Office, and to draw out the military in such a way, as to place them between two parties.—It proposed to seize on the banking-houses, &c. The witness said that he wished only for Reform. That he would not disturb the peace, or shed the blood of his fellow subjects. No more was said afterwards on the plan. There was a second meeting about a fortnight afterwards, when Watt suggested the necessity of prohibiting the dealers in corn, &c. to export their goods; and gentlemen not to depart more than three miles from their own houses, under penalty of death. On this suggestion nothing was done. There were then only five members present of the committee.

An Address was proposed to be sent to the King, praying him to dismiss his present ministers, and to put an end to the war, otherwise he may "expect bad consequences, or abide by the consequences." The witness could not tell which was the phrase employed. This Address was to be sent the morning after the attack. The witness said he wished only for a Reform, and would not accede to any of these propositions.

He went with Watt to Orrock, and the latter drew on the table a sketch of a pike. Watt desired him to be busy, as four thousand of them would be wanted for Perth. He knew Stock. He was present when a safe mode of correspondence was planned between Watt and Hardy, by Stock who was coming to London.

Being cross-examined by Mr. Erskine, he admitted, that Hardy could know nothing of this proposed correspondence. He should not have entered the Convention, if he thought they entertained any plan of seizing on the Judges, or committing any act of violence. The last deliberation of that meeting was, whether they should present a petition to the King, or to the Parliament.—The Convention never amounted to more than than one hundred. He had never heard the members speak of having arms, or of assuming the functions of Parliament. In this Society no object was ever proposed, but that of annual Parliaments and universal suffrage. No person ever suggested that they were to touch the King, or overturn the Monarchy.

Mr. Garrow resumed the examination of this witness. He asked him, whether a new Convention was not to be formed, not to be separated but by superior force; and funds established for their support. Of these purposes the witness was

ignorant. Mr. Garrow asked, why he did not disclose the first propositions of Watt to a magistrate?"

[*The Court humanely interposed, and pronounced it improper in the Counsel to attempt to lead his own witness into a confession of High Treason.*]

William Middleton was called, who had searched Watt's house, and found some pikes. The Lord President asked, whether this was not subsequent to the apprehension of Hardy? And on being answered in the affirmative, refused to admit the evidence.

After some conversation it was agreed, that the Court should meet next day at twelve o'clock.

Adjourned at a quarter before One.

Saturday November 1.—Fifth Day.

The Court being opened, *The Attorney General* proceeded to call evidence. The first witness was

John Schaw, one of the king's messengers, who being sworn, he deposed, that the paper produced to him, he found in the house of John Thelwall, either on the night of the 13th, or on the morning of the 14th of May last.

John Nost, a messenger, found the paper produced to him, in the chest of John Martin.

The *Attorney General* said, that these papers were the copies of Resolutions, intended to have been proposed at the meeting of the London Corresponding Society, held at Chalk Farm, on the 14th of April last; which Thelwall and Martin were to prepare, and which he should prove to be in the hand-writing of Martin; for this purpose he called,

William Walker, who examined the papers, and declared that he believed them both to be the hand-writing of John Martin.

Mr. Gibbs, one of the prisoner's counsel, cross-examined this witness. He has seen Martin write frequently—He (the witness) lived in the Adelphi.

Evan Evans swore that he had been confined for debt in the King's Bench prison about two years; that he was liberated from thence about six or seven months ago;—but correcting himself, he said, he was discharged from thence on the 31st of July last. From Martin having been confined for debt in the same prison, he became acquainted with him, and he there saw both the papers produced in Martin's room; it was in the beginning of April that he saw them, and before the meeting at Chalk Farm was held. They were not then dated. Martin told him, that he wrote these Resolutions for the Chalk Farm meeting; and read them several times over in the room while the witness was present. He said that he had put plenty of *Cayenne* in them, and that if they would follow his advice, there would be plenty of *warm work* before the month

was out. His wife saw the papers, and Mr. Gay, Mr. Toule, &c. some other persons heard the declaration of Martin, respecting his having prepared the resolutions.

Martin continued— that he had drawn up the Resolutions to be submitted to the Chalk Farm meeting: that they were warm, for he had put plenty of *cayenne* into them, and if they took his advice there would be *hot-work*.

The Attorney General remarked, that Pearce was the Sub-Secretary to the London Corresponding Society.

The Witness proceeded.— Pearce at the time he brought them to Martin, in the King's Bench Prison, said, that he had a number more, but that he had given the greater part of them away among the men at a coachmaker's in Long-acre; that Hardy had plenty of them, and if he wanted any more he would bring them to him.

Ann Evans said, she had seen Mr. Martin reading a paper, when her husband was present.

Mr. Gibbs cross-examined this Lady. She said that the Resolutions were for the meeting of the Society to have been held at a dancing-room in Stone-street, Tottenham-court-road. She had very frequently read the paper. (This was the meeting which was adjourned to Chalk Farm)

Thomas Toule said, that he was a Prisoner in the King's Bench, at the time Martin was confined for debt there, and he became acquainted with him. He never saw the paper produced, but he heard Martin say, three or four days before the meeting at Chalk Farm, that he had prepared resolutions for that meeting, which were warm; and that if they would follow his advice there would be hot work. He knew Mr. Richard Gay, who was a Prisoner in the King's Bench.

The attorney General then put in the paper which was read.

“ At a General Meeting of the London Corresponding Society, held at _____ on Monday the 14th day of April, 1794.

“ Citizen——— in the Chair,

“ Resolved,

That all sovereign, legislative, and judicial powers are the Rights of the People; and though the People have delegated those their original powers to others, in TRUST for the benefit of the community, yet the rights themselves are reserved by the People, and cannot be absolutely parted with by the People to those persons who are employed to conduct the business of the state.

“ Resolved,

That the Constitution of England is held by the King, Lords, and Commons, and other Officers appointed by the People, in TRUST, for the benefit of the People; and though these trustees may regulate and improve the Constitution, yet

they cannot alter or subvert it without committing Treason against the Nation.

“ Resolved,

That **MAGNA CHARTA**, or **THE GREAT CHARTER OF THE LIBERTIES OF ENGLAND**, made in the reign of King John; **THE PETITION OF RIGHTS**, assented to by Parliament in the reign of King Charles the First; and the several laws made at and in consequence of the **GLORIOUS REVOLUTION** in the year 1688, are declaratory of those parts of the Constitution of England, which are in and by them respectively declared.

“ Resolved,

That the office of King of England was not instituted by the people merely as an office of profit and honour to the King, but he was so appointed as chief trustee and guardian of the Constitution, and rights of the people; and that important and laborious and personal duties are annexed to the regal office, the objects of which are, to promote the good of the people, and preserve their rights in full vigour from innovation and corruption.

“ Resolved,

That it is the duty of the King to preserve the Constitution of England and the rights of the people against every incroachment; and, in order to enforce that duty, the following oath is required to be taken by every King on his accession to the throne of Great Britain; to wit: the Archbishop or Bishop shall say—will you solemnly promise and swear to govern the people of this kingdom of England, and the dominions thereto belonging, according to the statutes in Parliament agreed on, and the laws and customs of the same?”

“ The King or Queen shall say, “I solemnly promise so to do.” Archbishop or Bishop.—“ Will you to your power cause law and justice in mercy to be executed in all your judgments?”

ANSWER.—“ I will.”

“ After this, the King or Queen, laying his or her hand on the Holy Gospels, shall say—“ The things which I have before promised, I will perform and keep; so help me God;”—and then shall kiss the book.”

“ Resolved,

That his present Majesty, King George the Third, on his accession to the throne of these realms, did solemnly take the said oath.”

“ Resolved,

That the Constitutional Rights of the People have been violated, and that it is the duty of the People, in the present alarming crisis, to assemble and inquire into the innovations or infringements which have been made upon the Rights of the People, and how far the declarations of the Constitution,

as they were settled at the aforesaid Revolution, remain in force, and which of them have been violated, and by whom; and also whether such innovations, infringements, and violations, have been committed from the negligence or corruption of those who have been intrusted with the Government of the State.

“ Resolved,

- That this Society do invite the people to meet in their respective neighbourhoods, to elect one or more person or persons as Delegates, to meet in a Convention to be held on the day of _____ next, at such place as shall be appointed by the Secret Committee of this Society; and that the Delegates so elected do forthwith transmit to the Secretary of this Society, No. 9, Piccadilly, London, the vouchers of their several elections, in order that the place of meeting may be duly notified to them.

“ Resolved,

That it is the right and bounden duty of the people, to punish all Traitors against the nation, and that the following words are not a part of the Oath of Allegiance;” to wit. “ I declare that it is not lawful, upon any pretence whatever, to take arms against the King.”

John Edwards was sworn, and a hand-bill produced to him.—He was asked, if he had ever seen such papers? He said that he had seen one of those bills handed about at the Division Meeting of the London Corresponding Society, No. 11, held at Mr. Scotney’s on Snow-hill.

This bill was put in and read. The following is a copy of it:

“ The Ins tell us we are in danger of Invasion from the French.

“ The Outs tell us that we are in danger from the Hessians and Hanoverians.

“ In either case we should arm ourselves.—Get arms, and learn how to use them.”

William Middleton, one of the Sheriff’s Officers of the county of Edinburgh, said, that on the evening of the 15th of May last, he found in the house of Robert Orrock, smith, in Edinburgh, thirty-three pike blades, finished and unfinished. They were only the blades: on the same day he found in the house of Robert Watt, who was lately executed at Edinburgh, twelve pike, or spear heads, finished. At a second search in the same house, he found two other pike heads similar to those found on the first search, two battle-axes, and one shaft pole.

He, in the first instance, went to search Watt’s house for the goods of a bankrupt, which were suspected to have been secreted therein; in a closet or press in the dining-room, which was locked up, he found the pikes on the first search,

and in the lower part of the house he found the rest; these were delivered by him into the care of Sheriff Clarke.

DEFENCE.

The evidence for the Crown being closed, Mr. ERSKINE rose to address the Court and Jury in defence of the prisoner; and he pronounced one of the most brilliant orations that ever was heard in a Court of Justice.

The Hon. THOMAS ERSKINE.—“ Before I proceed to the discharge of that duty to which my situation this day calls me, I desire to return my thanks to the Court, for having adjourned their proceedings to an hour which has afforded me an opportunity to take that necessary refreshment which nature demanded, as well as to you, Gentlemen of the Jury, for the very polite manner in which you assented to an adjournment so essential to my accommodation, and to my being at all qualified for the task in which I am now to engage. Before I proceed to the case, as it regards the law and the evidence, I wish to follow the liberal example that has been set by the Attorney General, in his opening speech, in putting aside every thing collateral to the question. But first, both in the name of the prisoner for whom I stand, and for myself, I desire to subscribe to all that eulogium pronounced by the Attorney General on the Constitution of this Country, as handed down to us by our ancestors, the result of their superior wisdom and virtue, and entitled to the esteem and veneration of all posterity. But having premised this, the genuine expression of feeling, I trust not less sincere than those which dictated the panegyric of the Attorney General. What, I will ask, entitles the Constitution to this eulogium! What renders it the object of our love and reverence! I will not now speak of the right which it affords to its subjects, or of making their own laws, but of the equal protection afforded to all, and the security provided for the impartial administration of justice. The Attorney General seemed to lay great stress on the anarchy and confusion of France, on which he discanted at length. Into that subject I will not at present enter; I neither will enquire into the causes by which they were first produced, nor the circumstances from which they have proceeded to such an extent. But what is it that the French have chiefly to deplore? They are at present under the dominion of a barbarous necessity, in consequence of which no man's life, liberty, or property is secure, or at his own disposal for a moment. The first instant that a charge of incivism, federalism, or moderatism, is brought against him, the sentence of the Revolutionary Tribunal follows—quick as the thunderbolt pursues the flash, and he is

doomed to behold his friends and family no more. Such is the comparative state of England and France; and what is the inference we ought to draw with respect to the present case. If the prosecution be indeed intended to avert from this country the horrors of that anarchy, under which France at present labours; if it be intended to secure the continuance of those blessings which it enjoys under its admirable Constitution, let not the Prisoner suffer from the execution of barbarous Laws barbarously enforced, or from the well-meaning enthusiasm of those, who, sincerely attached to the Constitution, are desirous to ensure its preservation at any price. For in former instances in the history of this country, where we have to lament the sacrifice of innocent persons under legal pretences, I am apt to think we ought rather to condemn the mistaken zeal than the barbarous ferocity of the age. It is necessary then that you, Gentlemen of the Jury, should guard against this source of delusion and injustice, it is necessary that in the decision which you are called to give, you should stand on the strict and unequivocal letter of the Law. It would not be enough that the Prisoner should appear to you to have been rash, foolish, or wicked—the last of which it will be impossible to support by any colour of evidence—for I trust I shall be able to vindicate his conduct, which, in the present instance, is of little consequence. It must be proved to your satisfaction, that he has offended against that statute under which he is indicted. He holds his life from the Law, and by it he demands to be tried. This fair trial I ask; first, from the Court—I ask it more emphatically from the Jury—but lastly, and chiefly, I implore it of him in whose hands are all the issues of life, whose just and merciful eye expands itself over all the transactions of mankind, without whom not a sparrow falleth to the ground, at whose command nations rise and fall, and are regenerated—I implore it of God himself, that he will fill your minds with the spirits of justice and of truth, that you may be able to find your way through the labyrinth of matter laid before you; a labyrinth in which no man's life was ever before involved in the whole history of British trial, nor indeed the universal annals of human justice or injustice.”

Mr. Erskine then proceeded to the Indictment—The first charge of the Indictment was, *that the prisoners maliciously, traitorously, and with force of arms, did amongst themselves and other false traitors, to the jurors unknown, conspire, compass, and imagine to excite insurrection, rebellion, and war against the King, and to subvert the legislature rule and government of the kingdom, and to depose the King from the Royal State, title, power, and government of the kingdom, and to bring and put our said lord the King to death.*—“Gentlemen of the Jury,” said Mr.

Erskine, "you have been extremely good in taking down the evidence; allow me now to request you to attend to the form and substance of the charge. The whole Treason lies in the last member of the charge, viz.—*And to bring and put our said Lord the King to death.* The Indictment then goes on to charge the overt-acts—*And to fulfill, perfect, and bring to effect their most evil and wicked Treason, and treasonable compassings and imaginations aforesaid, viz.—to bring and put the King to death. They met, conspired, consulted and agreed among themselves and other Traitors to the Jurors unknown, to cause and procure a Convention and Meeting of divers subjects to be assembled within the kingdom, with intent and in order that the persons so assembled, and at such Convention and Meeting, should traitorously, without and in defiance of the authority, and against the will of Parliament, subvert and alter, and cause to be subverted and altered, the Legislature, Rule and Government of the Country, and depose, and cause to be deposed, our Lord the King, from his Royal State, Title, Power and government thereof.* That the Prisoner conspired the death of the King, and that in pursuance of this intention, he did all the acts charged in the Indictment, provided arms, and concerted the plan of a Convention. And here two things occur for consideration, which are absolutely necessary in order to establish the guilt of the Prisoner under this charge. First, it is necessary to prove, that he actually did the things which are charged in the Indictment. Secondly, that he did them with the intention, and in pursuance of the object of compassing the King's death. Was this Convention by which he proposed to put down the King, to supersede the functions of the Legislature, and usurp to itself all the authority of the state? A man cannot be guilty of the overt-act, without having first conceived the intention. It is the intention which at the time passes through his mind, that alone attaches guilt to the act. And if you are satisfied with respect to the guilty intention, you are then to consider whether the overt-act is of a nature which amounts to the description of that charged in the Indictment. And here I would earnestly implore the attention of the Court, and of the Attorney General, to what the law is. It is not my intention on the present occasion, to offer any thing of my own. It is only my wish to make you masters of the authorities. Nor is it necessary that I should bring forward my own authority for the purpose of defending the prisoner, and answering the arguments of my Hon. Friend, the Attorney General—for my Hon. Friend I often have called, and still will continue to call him. He has not had recourse to barbarous precedents nor bloody murders committed under pretext of law; he has not brought forward the excesses of a rude and sanguinary age, or the legal sophistry of corrupt and profligate Judges—He has rested on

grave and venerable authorities, though mistaken, in my opinion, with respect to the deductions which he has drawn from them. That mistake I ascribe neither to the defect of his understanding or his heart; I have too high an esteem for the enlargement of the one, and the integrity of the other. On those very authorities which he has brought forward, I also mean to rest; and I am persuaded that if there is any difference among them, it will be found only to arise from a mere tripping of expressions. And first, I must advert to the constructive Treason of deposing the King. And here I must remark, that I stand in a fearful and delicate situation; it is necessary therefore that I should occupy a large ground, as not only the life of the prisoner at the bar is at stake, but the lives of many, who are behind, involved in the same question, and dependent upon the same issue."

As trial was nothing more than the application of the facts disclosed in evidence, to a rule of human action or conduct, the breach and violation of which constitutes the charge the preliminary discussion must be (Mr. Erskine continued) what was the law, and what the breach of it, which the prisoner was called upon to answer. To do this, as it became him, upon so solemn and awful an occasion, he must resort to the history of the country, the records of the law, and the authoritative writings of the most learned men upon the subject of High Treason. In doing this, it was not his desire, as he said, to impress upon the Court any theories, or opinions, of his own, but to extract, by legal reasoning, from those unerring sources—the law of the land upon the subject.

As to the crime of High Treason at common law, before the statute of the 25th Edward III. upon which the indictment, and every indictment for High Treason, must now be framed, little was necessary to be said concerning it; he should therefore dismiss the consideration of the common law on the subject of Treason, with the observation of that great, excellent, and most learned person, whose memory would last as long as law or constitution remained to Englishmen, Lord Chief Justice Hale, who says, "That at common law there was a great latitude used in raising offences to the crime and punishment of Treason, by way of interpretation and arbitrary construction, which brought in great uncertainty and confusion. Thus accroaching [*i. e.* encroaching] on royal powers, was an usual charge of Treason anciently, though a very uncertain charge, so that no man could tell what it was, or what defence to make to it." He then proceeds to state various instances of vexation and cruelty, and concludes with this observation, "By these and the like instances that might be given, it appears how arbitrary and uncertain the law of Treason was before the statute of the 25th of Edward III. whereby it came to pass, that almost every offence that was,

or seemed to be, a breach of the faith and allegiance due to the King, was by construction and consequence, and interpretation, raised into the offence of High Treason." To remedy these grievous abuses, by which every faction in its turn sacrificed its enemies by arbitrary executions, founded upon constructive Treason, making ancient English like modern France, the wise and venerable statute of K. Edward III. was made, whose excellent and benevolent object was to make Treason certain. Lord Coke called the Parliament who passed this statute *Parliamentum Benedictum*, and the like honour was given to it by the different statutes which, from time to time, brought back Treason to its standard, "all agreeing in manifesting and extolling this blessed statute." As no Judge ever did or could deny that this statute was enacted to give, by its letter, all certainty and precision to the crime of Treason, and to prevent the arbitrary constructions by Judges, which had disfigured and dishonoured the ancient law, and brought, to use Hale's language, "insecurity upon both King and People." It might be affirmed that this celebrated statute would little have deserved the panegyrics bestowed upon it, if it had not, in its enacting letter, which professed to remove doubts, and to ascertain the law with precision, made use of expressions well known and ascertained; and it would be seen how cautiously it did so. The two great objects of the statute were to guard, 1st, The natural life of the King—and, 2d, His executive power and authority. So important was it considered to save the kingdom from the confusion into which it must be thrown by cutting off the life of the first Magistrate, that it made the *intention* to kill the King equivalent to the *act* of killing him; guarding the pre-eminent life of the Sovereign by sanctions superior to the ordinary laws, which guarded even the state itself; and therefore, though a compassing the death of the King, Queen, or Prince, was made High Treason, without the accomplishment of the purpose, yet a compassing to murder the Chancellor and Judges, whose lives, as the King's Representatives, were also guarded by the statute, was not made Treason. To compass their deaths, when sitting in judgment, was not made equivalent to the act of killing them; no, nor even the *compassing* to subvert the King's political authority by war and rebellion. The statute not having substituted the *intention* for the *act* in that branch, leaving the security of the King's natural person and life, and that of his Queen and Prince, the only exceptions to the ordinary rules of judgment and law. In order to prevent arbitrary constructions of this severe but arbitrary law, and to guard the subject from the uncertainty of judicial constructions of Treason, it cautiously sought for an expression well known and understood in the ancient law, viz. *compassing the death*—the words are, "when a man doth compass or ima-

gine the death of our Lord the King." Mr. Erskine said, as he wished cautiously in this part of his address to avoid every observation or opinion of his own, he would resort to the explanation of this expression by the celebrated Judge Forster—"The antient writers (says Forster) in treating of felonious homicide, considered the felonious intention, manifested by plain fact, in the same light, in point of guilt, as homicide itself. The rule was, *voluntas reputatur pro facto*, and while this rule prevailed, the nature of the offence was expressed by the term *compassing the death*. This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the King, Queen, and Prince, the statute of Treasons has, with great propriety, retained it in its full extent and rigour, and in describing the offence has likewise *retained* the antient mode of expression. When a man doth compass or imagine the death of our Lord the King, &c. and thereof be upon sufficient proof provablement attainted of open deed by people of his condition, the words of the statute descriptive of the offence, must therefore be strictly pursued in every indictment for this species of Treason; it must charge that the Defendant did traitorously compass and imagine the King's death, and then go on and charge the several acts made use of by the Prisoner to effectuate his traitorous purpose, for the compassing the King's death is the Treason, and the overt-acts as the means made use of to effectuate the intentions and imaginations of the heart, and, therefore, in the case of the regicides, the indictment charged that they did traitorously compass and imagine the death of the King, and the cutting off the head was laid as the overt act, and the person who was supposed to have given the mortal stroke was convicted on the same indictment." This instance of the regicides, selected by Forster to illustrate that the traitorous purpose was the crime, was very striking and remarkable. Although the King was actually put to death, the homicide was not charged, but the traitorous purpose; and the then Chief Baron, in his speech to the Grand Jury, said, "These persons are to be proceeded with according to the laws of the land, and I shall speak nothing to you but what are the words of the law. By the statute of Edward III. it is made High Treason to compass and imagine the death of the King. In no case else, imagination or compassing without an actual effect, is punishable by law."

He then speaks of the sacred life of the King, and speaking of the Treason, says, "The Treason consists in the wicked imagination, which is not apparent. But when this poison swells out of the heart and breaks forth into action, in that case it is High Treason. Then what is an overt-act of an imagination or compassing the King's death? Truly it is any thing which shews what the imagination of the heart is." At

ter shewing that the noble and sublime spirit of humanity, which pervades and supports the whole system of our jurisprudence, ever awake to interfere in protection of our imperfect natures, would not suffer the ancient law, with respect to private persons, to remain, he said, that for ages past the death of the private man had been held necessary to the completion of the felony; but, as Forster truly observed in the passage he had just read, this rule, too rigorous in the case of the subject, the statutes of Treason retained in the case of the King, and retained also the very expression. The Sovereign's life was made to remain an exception, and the *voluntas pro facto*, the will for the deed, remained the rule; and, therefore, said Forster, the statute meaning to retain the law; which was before general, retained the expression. The statute did not, in its first branch, make a new law in its principle or expression, but retained the old one applicable to subjects. It followed inevitably from thence, that within the letter and meaning of the statute nothing could be a compassing of the death of the King, that would not, in ancient times, have been felony in the case of a subject. The opinion of Judge Foster was confirmed by that of Lord Coke, by that great prerogative lawyer, whose infamous prostitution in the case of Lord Strafford would tarnish his name to all posterity; but still his opinions as a critic and a commentator, made him a proper authority for him to use. Lord Coke in his Commentary upon the words of the statute, which he did with that precision and technical nicety, which, though not calculated to please the ear, were so valuable in a book of science, when he comes to the words "doth compass," says, "Let us see first what the compassing of the death of a subject was before the making of this statute, when *voluntas reputabatur pro facto*"—thus falling in with the opinion of Judge Forster. He then stated Lord Coke's definition of the expression of common-law, which went to show that the compassing the death of the King, not only by the plain common sense of the expression, but by looking back to the common law, from whence, for centuries back, the expression was admitted to have been borrowed; it was clear that a probable speculative consequence must not be confounded with an intention, since the overt act must be laid directly to shew the traitorous purpose of the heart. Notwithstanding the benevolent precision of this statute, it was lamentable to see the departures from it, which mark and disfigure our history; but, at the same time, it should be a theme of consolation to Englishmen to reflect, that as often as in arbitrary and wicked times, it was invaded by Parliaments and Judges, the justice of better Judges and better Parliaments brought the law back to the ancient standard; these invading statutes and judgments, and their repeals, were indeed decisive of the true construction of the statute.

The statute of the 25th Edw. III. had expressly directed that nothing should be declared to be Treasons but cases within its enacting letter; yet Lord Hale says, that "things were so carried by parties and factions in the succeeding reign of Richard II. that the statute was but little observed. But as this or that party got the better, so the crime of High Treason was in a manner arbitrarily imposed or adjudged, which by various vicissitudes and revolutions mischiefed all parties first and last, and left a great unsettledness and inquietness in the minds of the people, and was one of the occasions of the unhappiness of the King." Mr. Erskine shewed, in order, the various statutes which had altered and impaired the statute of Edw. III. The statute of the 21st. of Richard II. which Lord Hale says, "was a snare for the people, insomuch that the statute 1st. Henry IV. which repealed it, recited that no man knew how he ought to behave himself, to do, speak, or say, for doubt of such pains of Treason, and therefore wholly to remove the prejudice which might come to the King's subjects, the statute 1st. Henry IV. chap. x. was made, which brought back Treason to the standard of the 25th of Edward III." Now what did this statute of Richard II. which produced so much mischief? It only went beyond the statute of Edward III. by the loose construction of compassing to depose the King, and raising people, and rising to make war. Levying force to imprison or depose the King, was already and properly Treason; but this statute of Richard II. enlarged only the crime of compassing; making it extend to a compassing to imprison or depose, and making that equal to an actual levying of war; and this extension was reprobated, stigmatized, and repealed by the statute of 1st. of Henry IV. and "so little effect," says Mr. Justice Blackstone, "have other violent laws to prevent any crime, that within two years after this new law of Treason respecting imprisonment and deposing, his very Prince was both deposed and murdered. Mr. Erskine then went on to the next departure of the statute in the 1st. and 2d. of Philip and Mary, which made a compassing to levy war, if manifested by printing, writing, or overt-act, High Treason. This shewed that a compassing to levy war was not considered to have been Treason within the act of Edward III. which required an actual levying of war. If compassing to levy war had been considered as compassing of the King's death, it would have been unnecessary to declare it Treason by this act. The first branch of the statute of Edward III. made it High Treason to compass or imagine the King's death; but the second branch of the statute required an actual levying of war necessary to constitute Treason.—The law made the natural life of the King so much more sacred than his executive authority, that to imagine his death was Treason, but there must be a positive attack made upon

his executive authority by the levying of war, to constitute the other. What was it that was meant to be restored by the statute of the 1st of Mary? The letter of the 25th of Edward III. or the judicial construction of it? Clearly it was the letter that was to be restored. He wished nothing to be taken, he said, from any unauthorised opinion of his own; but he wished to bottom himself upon the authority of the great Judges whose opinions had been pressed erroneously into the service against them. He said erroneously, because it would be seen that their declaration were reconcileable. The writings of those great Judges were thickly sown with warnings to Judges to avoid constructive treason. Lord Coke says, that "the statute of the 1st of Mary speaks a strong language against constructive treasons, when it says, it was declared by the whole Parliament, that laws justly made for the preservation of the whole common wealth, without extreme punishment, are more often obeyed and kept, than laws and statutes made with great and extreme punishments, and in special laws and statutes so made, whereby not only the ignorant and rude unlearned people, but also learned and expert men minding honesty, are oftentimes snapped and snared."

The Lord Justice of Scotland, said Mr. Erskine differed from this statute in what he said at Perth, "that very honest men were guilty of Treason without knowing it." In this statute of Mary, Lord Coke goes on to say that, two things are to be observed, 1. That the word expressed in the statute of Mary excludes all implications or inferences whatsoever. 2. That no former attainder, judgment, &c. &c. other than such as are specified and expressed in the statute of Edward III. are to be followed or drawn into example, for the words be plain and direct. And further, on commenting on the word *proveablement* he says, "In this branch it is to be observed, the word *proveablement*, *proveably*, i. e. upon direct and manifest proof, not upon conjectural presumptions, or inferences, or strains of wit, but upon good and sufficient proof; and herein the adverb *proveably* hath a great force, and signifieth a *direct plain proof*, which word the Lords and Commons in Parliament did use, for that the offence of Treason was so heinous, and so heavily and severely punished, as none other the like; and therefore the offender must be *proveably* attainted, which words are as forcible as upon direct and manifest proof. Note, the word is not *probably*, for then *commune argumentum* (a common argument,) might have served, but the word is *proveably* be attainted." Nothing could be so curiously and even tautologously laboured, as this commentary of Lord Coke upon this single word in the statute; which manifestly shews that so far from its being the spirit and principle of the law of England, to adopt rules of construction, and proof unusual in trials for other crimes, that

on the contrary, the legislature did not even leave it to the Judges to apply the ordinary rules of legal proof to trials under it, but admonished them to do justice in that respect in the very body of the statute. Lord Hale's words were equally striking. He brings forward instances to shew "how necessary it was that there should be some known, fixed, settled boundary for this great crime of treason, and of what great importance the statute of Edward III. was, in order to that end; how dangerous it was to depart from the letter of that statute, and to multiply and enhance crimes into treason by ambiguous and general words, such as accroaching royal power, subverting fundamental laws, and the like; how dangerous it was by construction and analogy to make treasons, when the letter of the law has not done it, for such a method admits of no limits or bounds, but runs as far and as wide as the wit and invention of accusers, and the detestation of persons accused, will carry men." Surely the admonition of this supereminent Judge, ought to sink deep into the heart of every Judge, and of every Jury who were called to administer justice, under an accusation upon this statute. The great man seems to have a bird's eye of the present trial; he seems to have anticipated the horrors of such a confused, heterogeneous mass of papers as were now brought before a Jury; where no specific overt-act directly expressive of an intention to compass the King's death was laid, no precise point of a man's life specified—but where four days had been necessary to the mere accumulation of the mass—where a speech of nine hours was required to explain the charge—and a whole life of treasons was to be collected from inferences, speculations, and tendencies that no man could touch with his understanding, nor treasure in his memory. The words of Mr. Justice Forster in his discourse upon treason were no less emphatical. After commenting upon writings and words when used as evidence of treason, he says, "I have considered the question of words and writings supposed to be treason the more largely, not only because of the diversity of opinions concerning it, but likewise for the great importance of the point, and the extreme danger of multiplying treasons upon slight occasions."

The next and the great question to be considered was, how the doctrines of these lawyers who had thus inveighed against constructive treasons were reconcileable with the positions to be found in their works, which had been cited and relied on by the Attorney General. In order to discuss the matter with precision, they must advert to the language of the passages cited, in doing which they would find that none of these great authors had said, that compassing to change the laws by force, was treason in the abstract, or that even compassing to levy war against

the King was treason in the abstract; or that compassing to imprison the King, until he yielded to particular demands, was treason in the abstract; but only that any of these acts might be laid as overt-acts of compassing the King's death; that they were acts that might be legally submitted to the Jury, as the means made use of to effectuate the purpose charged in the indictment, viz. the compassing the death of the King, and might therefore be legally charged upon the record, as overt-acts of that treason: the statute required that the compassing the death, which was the crime, should be manifested by overt-act; the overt-act, therefore, must be laid in the indictment. What might be an overt-act was matter of law for the Judges, but whether, when so laid, it was sufficient to establish the traitorous purpose, was matter of fact to the Jury. This distinction was not peculiar to treason, but pervaded the whole law of England. What facts were evidence from whence any matter in issue might be legitimately inferred, was matter of law; but whether any given facts, which were legally relevant to prove the matter which they were adduced to establish, were sufficient in any particular instance, depended upon the conclusion which the Jury should draw from the facts simply, or from the whole evidence upon the trial of the issue. Mr. Erskine illustrated this by a recent case relative to Bills of Exchange, which came before the House of Lords. When the question was agitated in the shape of a demurrer to evidence, it was decided by the House of Lords, that the conclusion to draw from relevant and admissible evidence, to prove any matter in issue criminal or civil, could not, by demurrer to evidence, or by any other process, be withdrawn from the Jury to the Judges; the province of the Judges being to judge of the law, and consequently of the irrelevancy and inadmissibility of evidence as a branch of law, but that it belongs to the Jury alone in each particular case to draw the particular conclusions from relevant and admissible evidence. This distinction would at once explain all the seeming contradictions in the books concerning overt acts of Treason; particularly in the Treason of compassing the King's death. The charge of compassing being a charge of intention, which, without a manifestation by conduct, no human tribunal could try; the statute required that the intention to cut off the Sovereign should be manifested by overt-acts, and as a prisoner charged with an intention could have no means of knowing how to defend himself, when an intention was the crime, without notice of the facts from whence such intention was to be imputed to him, it was the practice to state, upon the face of the indictment, the overt-act, as the means taken to effectuate his purpose; and by the statute 7th. William III. no evidence shall be admitted or given of any overt-act, that was not expressly laid in the

indictment In order to confirm these doctrines, he would make his appeal to every record and authority in the law of England.

In the first place, so far were the overt-acts of compassing to depose, or compassing to imprison, or compassing to change the laws by force or intimidation, or any other compassing short of the direct compassing the death of the King, capable of being made High Treason, that the indictment must charge that the Prisoner did traitorously compass the death of the King; and the overt-act can be put upon the record in no other way than as the means by which the existence of that traitorous purpose was to be put for the consideration of the Jury. He quoted Lord Coke in his 3d Institute, 11 and 12, to prove that this was his opinion. The contemplation, purpose and contrivance must be found to exist, without which, says Lord Coke, there can be no compassing. Lord Coke's doctrine was so implicitly followed by Lord Hale and Forster, as far as related to this part of the subject, that it was almost unnecessary to advert to their works, but as he wished to stand upon authority in every stage, he would refer to them. He then quoted from Lord Hale's P. C. page 107, stating that the overt-act must be laid down so far as to enable the imagining to be brought to trial by human judicators. As long as the English Constitution preserved to a Jury the legal cognizance of facts, we had the best security for the preservation of the subject. There was a misconception in this particular, that innumerable controversies on the Trial of Libels, and which were at last happily quieted by the late Act of Parliament. But in the case of a libel it must be allowed there was some plausibility in the judicial usurpation, whereas applied to Treason there was none. In the case of Treason, the *purposse of the mind* was the crime charged; the overt-act was only alledged to be an act done in pursuance of that intention; which made it shocking alike to common sense and to conscience to say, that because the Jury gave credit to the overt-act as a matter of history, that they must therefore find the traitorous purpose. He then enumerated Lord Hale's instances, which had been held to be sufficient overt-acts of compassing. "When men conspire the death of the King, and thereupon provide weapons, &c. or send letters for the execution thereof this is an overt-act within the statute. If men conspire to imprison the King by force and a strong hand, until he has yielded to certain demands, and for that purpose gather company, or write letters, that is an overt-act to prove the compassing of the King's death, as it was held in Lord Cobham's case by all the judges." In this sentence Lord Hale did not depart from that precision which so eminently distinguished all his writings; he did not say that if men conspire to imprison the King, that was high treason;

no, nor even in overt-act of high treason; but to prevent the possibility of confounding the treason with matter which might be legally charged as relevant, he said, this is an overt-act to prove the compassing the King's death, and as if by this mode of expression he had not done enough to keep the ideas assunder, and from abundant regard for the rights and liberties of the subject, he immediately adds, "But then there must be an overt-act to prove that conspiracy, and then that overt-act to prove such design is an overt-act to prove the compassing of the death of the King." The language of the sentence laboured on the ear from the excessive caution of the writer; afraid that his reader should jump too fast to the conclusion, upon a subject of such awful moment, he pulls him back after he has read that a conspiracy to imprison the King is an overt-act, to prove the compassing his death, and says to him. "But recollect that there must be an overt-act to prove in the first place the conspiracy to imprison the King, and even then that proposition, that intention to imprison so manifested, by the overt-act, is but in its turn an overt-act to prove the compassing or intention to destroy the King." He says too, the intention must be forcible, and he proceeds to reprobate a constructive compulsion upon the King independently of actual restraint. Lord Hale goes on to distinguish, between constructive levyings of war against the King's Executive Authority from conspiracies to levy war upon his person; and declares that though it might be *prima facie* good upon an indictment when barely laid as a levying war against the King, yet it would fail when it appeared in evidence to be no more than a levying war by construction and interpretation. The mind of the prisoner, which it was the object of the trial to lay open, would be shut and concealed from the jury, whenever the death of the Sovereign was sought by circuitous means, instead of a direct and murderous machination. It was curious to compare Lord Coke's speech to the jury as Attorney General against Lord Essex, with the writings which he had left as monuments to posterity of the law upon this momentous subject. But it was lost of time to consider the arguments of an Attorney General who could so dishonour himself and degrade his profession, as Lord Coke, to his eternal infamy, did in the case of Sir Walter Raleigh.

His Honourable and Learned Friend, the present Attorney General, would, by his candid proceeding in the opening of this cause, go down to posterity with a purer character, though he might not have written so many books as this great, base, and degraded man. It was fit, nevertheless, for the present argument to observe, that in the case of Lord Essex, Lord Coke expressly treated High Treason as a crime of intention. What was the rule with regard to penal statutes of every description? The rule notoriously

was to adhere rigidly to the letter. Judge Forster says, it may be laid down as a general rule that indictments grounded on penal statutes, especially the most penal, must pursue the statute so as to bring the party precisely within it. It was needless to say that if the benignity of the law required this precision in the indictment, the proof must be correspondingly precise; for otherwise the subject would derive no benefit from the strictness of the indictment. If a defendant could be convicted by evidence amounting to a breach of the real or supposed spirit of the statute only, then the strictness of the indictment would be no protection of the prisoner, but would be a direct violation of the first principles of criminal and civil justice. He illustrated this by referring to many different cases. In Mary Michell's case, Judge Forster says, "Although a case is brought within the *reason* of a penal statute and within the mischief to be prevented, or if it does not come within the unequivocal letter, the benignity of the law interferes." He referred also to Gibbons's case, and those of John Howard and John Bell, for illustrations of the same doctrine.

Having maintained the argument by the letter of the statute itself, the authoritative writers, whose works were forever referred to by the officers of the Crown in state prosecutions, the next stage in the argument was to examine whether these authorities had been acted upon. He meant to maintain that in every case which was considered as a precedent, the same construction had been put upon an overt-act, and that no overt acts had been regarded but such as went directly, and not constructively, as an attack on the person of the King. The first cases that deserved attention, after England had her present Constitution, were the trials on the assassination plot against King William.

The trials of Sir John Frenck, Sir William Parkyns, and others, before Lord Chief Justice Holt; nothing in these trials went against the principles which he had been endeavouring to establish. The charges against Sir John Frenck were unequivocal; the overt-acts relied on were, sending Mr. Charnock into France to King James, to desire him to persuade the French King to send forces over to Great Britain, to levy war and depose King William. The next overt-act was—preparing men to be levied, to form a corps to assist in the restoration of the Pretender, and the expulsion of King William, of which Sir John Frenck was to be Colonel. In this case the proof was either to be wholly discredited, or it went directly home to a legal overt-act of the compassing

the death of the King upon the principles which he had laid down. It was not a speculative tendency to his death, but was a consequence so direct and immediate, that he who pursued the act, might be justly convicted of the intention, for if the plot had succeeded, and James had been restored, King William must have been necessarily attainted and executed by the forms of English law. Observing in the gestures of the Counsel for the Crown, their hesitation as to this proposition, he repeated the fact, and said, that indisputably the restored King might, and inevitably must have brought King William as an usurper before a tribunal like the present, either at the Old Bailey, or wherever else it should have been appointed. No man who engaged in that plot could be reasonably supposed not to have foreseen, and to have intended the King's death. Lord Holt's summing up did not go beyond this admitted principle. "The Treason," said he, "that is mentioned in the indictment, is conspiring, compassing and imagining the death of the King. To prove the conspiracy and design of the King's death, two principal overt-acts are insisted on." He did not consider the overt-act of conspiracy to be the Treason, but evidence to prove the compassing. He then sums up the evidence for and against the Prisoner, and leaves the intention to the Jury as matter of fact. Afterwards he comes to answer the Prisoner's objection in point of law. "There is another thing," said Lord Chief Justice Holt, "he did insist upon. The statute of Edward I. contains divers species of Treason: One is compassing and imagining the death of the King; another is the levying war: Now," says he, (Friend), "here is no war actually levied, and a bare conspiracy to levy war does not come within the law against Treasons." To pause here a little, said Mr. Erskine, Friend's argument was this:—Whatever my intention might be; whatever my object by levying war might have been; whatever my design; however the destruction of the King might have been effected by my conspiracy if it had gone on; and however it might have been my intention that it should, it is not Treason within the 25th of Edward III. To which Lord Holt's reply was:—"If there be only a conspiracy to levy war, it is not Treason; it is only a substantive Treason; it is not a Treason in the abstract; but if the design and conspiracy be either to kill the King, or to depose him or imprison him, or put any force or personal restraint upon him by force; and the way of effecting these purposes is, by levying a war, there the conspiracy and consultation to levy war for that purpose is High Treason, though no war be levied; for such consultation and conspiracy is an overt-act proving the compassing the death of the King." If Holt had meant to lay down that such a conspiracy to levy war in order to depose the King, without the further intention to kill him, it was in itself High Treason.—

Thus, as for example, if persons do assemble themselves to act with force in opposition to some law, and hope thereby to get it repealed, this is a levying war and treason, though the purposing and designing is not so—So when they endeavour in great numbers, with great force, to make reformation of their own heads without pursuing the methods of the law, that is a levying war, but the purpose and designing is not so; so that the objection he makes is of no force. Here again we have a prophetic glance at the present trial: for the whole volume before the Jury went to no more than to accuse them of the design of making reformation of their own heads, and he concludes by again leaving the matter to the Jury. Lord Holt, therefore, in this Address to the Jury, did not say that if a man conspired to do an act which act might produce a given consequence, and which consequence, again building construction on construction, and consequence on consequence, might lead to the King's death—was an overt-act of compassing. But he put the conspiracy directly, with reference to the point before him, as an immediate and direct conspiracy to depose the King, and set up another. Compare this doctrine with the case before us. Let the Jury but turn their eyes to the mass on the table of the Court. He did not mean to accuse the law officers of the Crown, but let them reflect on the sort of circumstances that had been amassed and brought together in order to affect the Prisoner at the bar. Could any man, whatever had been his attention—whatever were his powers of discrimination, he desired him to develope the intention, gift and end of the heap before him. There was consequence added to consequence—there was speculation upon speculation—the Prisoner was to be led from this to that—the desire of enlightening his fellow citizens was to produce a desire of reform of certain grievances—the desire of reform was to lead them to Republicanism—this was to lead them to arming and violence—and in some future time, this was to produce a change in the frame of our Government, and this change was to affect the King's dignity, and finally this was to be taken as an overt act of compassing his death.—If it were not unfit to introduce any thing ludicrous upon so solemn an occasion, he should say that all this reminded him of the story in every child's gillt book, of "Here was the hull, that tossed the dog, that worried the cat," and so on, till you get to the house that Jack built.—Good Good! in this land of security and justice, were the lives of men to be put upon such hazards? Was it in England—was it in the year 1794, that such a trial was brought into a Court of Criminal Justice?—He knew that he might stop even here, and leave the life of the prisoner confidently to the sense and conscience of the Jury, for he had marked their unwearied attention, their discriminating judgment, and he would so leave the case, if he were not anxious for the prisoner's honour, as well as his life. Let them try him by this doctrine of Lord Holt: He told the Jury

in answer to a legal objection from the prisoner, that a conspiracy to levy war was not treason, but that a conspiracy to levy it, for the purpose charged in the indictment, was an overt-act, and it certainly was relevant evidence to prove the intention ; for if the conspiracy was palpable and direct to dethrone King William, the design of King William's death was an inference not of law from the act, but of reason and fact. Frennd might have said that the intention was to send King William back to Holland, to resume his station of Stadtholder, but who would have believed him ? If the fact was proved that he intended to depose the King, and introduce King James, they must have found the compassing of his death as an inference. The other cases of Parkyns, Layer, &c. he did not enumerate, though they all served to confirm his doctrine ; but he had already so far exhausted himself, and had still so much to go through, that he must depart from his original intention of passing through all the cases *seriatim*.

He referred to the case of Lord George Gordon, and he should not be afraid of the Solicitor of the Treasury, if he were to act in this way. If he was to come to the House of Commons with ten thousand men, for the purpose of having a turnpike bill repealed, and they actually did nothing but appear there, that would not be Treason. He was now brought to that part of the speech of the Attorney General which referred to a more humble authority than any he had yet mentioned, he meant a part of his own speech on this trial just mentioned—that of Lord George Gordon, The Attorney General had stated Mr. Erskine's own proposition on that part of that trial, as if it was against the Prisoner at the Bar in the present case ; it should be remembered that Lord George Gordon was not indicted for compassing the death of the King, and Lord Mansfield said so on the trial, in which Mr. Justice Buller concurred, that the record on that trial, did not contain a charge against the defendant for compassing the death of the King.—Lord Mansfield told the Jury upon that trial :

“ The Prisoner at the Bar is indicted for that species of High Treason, which is called levying war against the King, and therefore it is necessary you should first be informed what is in law levying war against the King, so as to constitute the crime of High Treason within the statute of Edward III. and perhaps according to the legal signification of the term before that statute. There were two kinds of levying war : one against the person of the King, to imprison, to dethrone, or to kill him, or to make him change measures or remove counsellors : the other which is said to be *levied against the Majesty of the King*, or, in other words, against him in his regal capacity. In the present case, it does not rest upon an implication that they hoped by opposition to a law to get it repealed, but the prosecution proceeds upon the direct ground, that the object was by force and violence, to compel the legislature to repeal a law ; and

therefore without any doubt I tell you the joint opinion of us all, that, if this multitude assembled with intent, by acts of force and violence, to compel the legislature to repeal a law, it is High Treason."

Such were the words of the venerable earl of Mansfield on that trial. Now he would take the liberty, as the Attorney General had alluded to it, of quoting his own words upon the same trial. This was the sentence alluded to by the Attorney General:

"*To encompass or imagine the death of the King, such imagination or purpose of the mind, visible only to its great author, being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the government; the life of the Prince being so interwoven with the Constitution of the State, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other.*"

This was true, the destruction of the King leads to the destruction of the State; but did the converse of this doctrine follow of course, as the Attorney General seemed to insist upon? That to compass or intend any alteration in the other branches of the Legislature was compassing the King's death. The charge of compassing or imagining the death of the King was the inference of reason from overt-acts; but did it ever enter into the mind of man, that the intention was matter of law? Certainly not, for it was a fact to be determined by a Jury, and by them only; it was the inference of their reason from the facts and not the inference of law.

What the fate of the Prisoner would be, Mr. Erskine said, he knew not; he was confident in leaving it to men of honour, diligence and attention, who would be guided by the evidence under the rule of the law, which governed this case of real evidence in the cause. What they had heard of in the proceeding of the Secret Committees of the two Houses of Parliament, under Number A. or Number B. or Appendix C. and as to the evidence that was offered, he hardly knew where he stood when he examined it in a court of justice: One man heard another say something, but he took no notes of it, though employed as a spy for the purpose: another took some notes, but did not hear all that was said; a third heard something, somewhere of arms, and so on, but nothing of all this in the Prisoner's hearing. He would maintain, without fear of contradiction, that if any excess had been committed, the Spies of Government had proved that they provoked it all. Did he really believe that the Prisoner was guilty, he would have taken a very different course; but believing him to be really innocent he would defend him to the utmost of his power.

The Societies and the Prisoner at the Bar, as a member of one of them, were charged with having formed a plan to subvert the

established Government of the Country, as the means of carrying into effect their traitorous purpose against the Life of the King. The charge was not, that they had conspired to assemble the Convention which met at Edinburgh, but that they had conspired to assemble another Convention which never did meet. All the extraordinary evidence they had heard, and the most extraordinary the greater part of it was ever heard in a Court of Justice, went to prove the intention with which this second Convention was to be held. Whether a Reform of Parliament was a measure likely to produce all the good that some expected from it, or all the mischief that others apprehended, the discussion was, in the case of his Client, neither necessary nor proper. It was sufficient to examine whether all that had been said, or written, or printed, in the proceedings of the Societies, on the necessity of Reform, for every article of whose conduct the Prisoner, in the idea of his Prosecutors, ought to be amenable, was said *bonâ fide*, with honest intention, and in the sincere belief of its being true, or resorted to as a mere stalking horse, behind which to prepare the shafts of treason, and take aim at the Life of the King. He was ready to confess that, if the same defects in the Representation of the People in Parliament had not been noticed in any former period, had never occurred to persons in much higher stations, and, as far as motives of self-interest could attach men to any system, to persons who had a much more important stake in the Constitution of the Country, he might have been led to suspect that the intention of these Societies was not exactly what they professed. Happily, however, this was not the case. That the Representation of the people in Parliament was defective, that many and great abuses had crept into it, and that the health and longevity of the Constitution depended upon the correction of those abuses, was a doctrine supported by many and high authorities. On maintaining this doctrine, the great Lord Chatham built the fame and glory of his life, and bequeathed it to his son who raised upon it his own fame and fortune. If the Council for the prosecution had chosen to carry their evidence so far back, they would have found that the Society for Constitutional information, owed its birth to Mr. Pitt and the Duke of Richmond, whose plan of Parliamentary reform was Universal Suffrage and Annual Elections: and although he thought, with those whose political opinions he had been accustomed to consider with more respect, that this would not be an improvement, yet he could not imagine that they, who originally promulgated or strenuously supported it, had in contemplation the subversion of the Government, much less were compassing the death of the King. The Duke of Richmond was a man of great fortune, of the highest rank, and it was not to be imagined, that by contending for Universal Suffrage and Annual Election, he meant to strip himself of his own honours.

The Duke of Richmond was not only a man of high rank, but well known to be a man of extensive reading and deep reflection. The plan he proposed, as the only adequate plan for the Reform of Parliament, was not the offspring of rashness or folly, but of information and reflection. The Duke of Richmond said what he (Mr. Erskine) should be ready on all occasions to say—and he cared not how many of such miserable spies as had been brought forward to give evidence on this trial, were present to take down his words, or, as was more commonly their practice, to report what they thought fit to understand by his words, without taking them down—that if the Representation of the People in Parliament was not reformed, if the abuses that had crept into it were not corrected, abuse accumulating upon abuse must inevitably lead to a Revolution. The Duke of Richmond published his plan in 1782. The plan was addressed to Colonel Sharman, and proposed appointing delegates by Assemblies of the People, no matter whether styled Constitutional or Corresponding, or any other Societies, to meet in a general Convention. The terms, Delegates and Convention were, therefore, no new inventions, no imitations of a French model, but the natural growth of our own soil. When the Convention met at Edinburgh, although many imprudent speeches were made in it, speeches which he had no inclination, and which the defence of his Client certainly did not call upon him to justify, the declared intention of those who composed it, was to obtain what they, following high and unsuspected authorities, were taught to believe the unalienable Right of the People. A free and fair Representation in the Commons House of Parliament was the unalienable right of the People. He did not mean to state this as a right to be recognized in a Court of Justice, in opposition to positive Law, by which Courts of Justice could alone be guided, but as a right not of new imagination, sanctioned by the most unimpeachable authorities, and in prosecuting which by legal means no man incurred either guilt or censure. On this Right was founded the Right of his Majesty to the Throne, as he himself had maintained in Parliament, in opposition to the then newly adopted tenets of Mr Burke—“Of Mr. Burke,” said Mr. Erskine, “I speak not to blame. He possesses a mind enriched with the greatest variety of knowledge, the finest imagination, the most powerful and fascinating eloquence, the most extensive acquaintance with the history of the British Constitution. He is now suffering under a domestic misfortune, which every man who sympathises in the feelings of another, must deplore. I allude not to his change of political opinion as a fault: that change, I think, is to be liberally interpreted. I speak not here to blame any man. I speak to recommend Charity among men, for the opinions of one another, to conciliate all hearts in favour of our common Country, and by a fair, clear, and unprejudiced application of the Laws

of that country, to induce all to pursue the common interest, unterrified by armed Associations on the one hand, or Courts of Justice on the other." The Counsel for the Prosecution must prove the intention charged in the indictment, and that satisfactorily—not by proof of surmise and conjecture. To illustrate this he quoted the passage in Chief Justice Eyre's charge to the Grand Jury, "Whether this be a veil under which Treason is concealed, &c.—He had no doubt but that when this humane language was held, the Judge was unacquainted with the whole of the case; but it was sufficient to shew that on the surface of it, his Client, and those with whom it was implicated, were not traitors. He next quoted a passage from Holt, importing that forced or strained constructions are not to be put upon men's words or actions, but that the intention of them is to be tried and made out by clear and palpable evidence. Now, let the intention of the Prisoner and his associates be tried by this criterion. Were they the first to take up the doctrines now charged upon them as proofs of a treasonable purpose? The first Witness from Sheffield said, that he acted upon these doctrines as the Duke of Richmond had done, whom he never imagined to have any intention of subverting the Government, or compassing the death of the King. He did not mean to say that one man's having committed a crime with impunity, would justify another in committing a like offence; but that if one man had circulated particular opinions, without ever being accused or even suspected of evil intention, the circulation of the same opinions by other men was not to be held as evidence of evil intention. To whom did the Duke of Richmond transmit and recommend his plan? To Societies provided with half a dozen pikes? No, to Colonel Sharman, at the head of 10,000 men, armed and in military array: to men not commissioned by the King; to the Volunteers of Ireland, to whose exertions it was owing that his Majesty now enjoyed the Crown of Ireland. These men, so armed and arrayed, held a Convention, not secretly, but in the face of day. By the authority of the King? No. By the authority of the Lord Lieutenant? No. By the authority of circular Letters; and so far was this from being stigmatized as Treason, that their demands were complied with—wisely and properly complied with—for to grant the People their Rights was the surest way to harmonize their minds and attach their affections to the Government. Of all the Witnesses called on the part of the prosecution, was there a man, except the Spies, who said that their intention was any other than a Reform of Parliament by legal and Constitutional means? If the Spies were not to be believed, in contradiction to all the other Witnesses, the Court and the Jury were mis-spending their time: they might close the proceedings at once, and go home. All but the Spies said, that they would have renounced the Societies with indignation, if they had believed there was any in-

tion of deposing or killing the King. How could the poor Prisoner at the Bar hate the King, from whom it was impossible he could ever have received an injury? Was not the character of his Majesty such as to conciliate the love and affection of his subjects? Did he not confide so much in that affection as daily to ride abroad among them, without the parade of guards or attendants? Where, then, was the ground of this black suspicion, as unworthy of the King, as unmerited by his People? The minds of the men who composed those obnoxious Societies were irritated into intemperance by the representations of those who were now his Majesty's Ministers, of the abuses flowing from the decay of Representation and the consequent corruption of Parliament; and, if the Prisoner at the Bar should be hanged, while the Duke of Richmond was called to a seat in the Cabinet, he should say—

“ —————Plate sin with gold,

“ And the strong lance of justice hurtless breaks :

“ Arm it in rags, a pigmy straw doth pierce it.”

He should say, that, with respect to the protection of known law, we were in as bad a state as the people of France, where there was now no law; but there too, he had no doubt the People would yet claim and obtain law, as the most valuable of their rights. In 1782, during the disastrous period of a War, pursued with as ill success as the principles upon which it was undertaken were bad; when increase of taxes and decline of commerce had generated discontent in every corner of the Country, and turned the minds of men to no mild scrutiny of the defects of Government, the Duke of Richmond's plan of Reform was published, and Conventions were held, which even arrogated the controul of the expenditure of public money; a function which had ever been understood to belong exclusively to Parliament. Here was a direct usurpation of the authority of Parliament which his Clients were charged only with intending.—

“ Let us hear,” said Mr. Erskine, Mr. Burke, “ on the nature and character of the House of Commons, not with regard to its legal form and power, but to its spirit, and to the purposes it is meant to answer in the Constitution. The House of Commons was supposed originally to be *no part of the standing Government of this country*; but was considered as a *controul* issuing immediately from the people, and speedily to be resolved into the mass from whence it arose. In this respect, it was in the higher part of Government what Juries are in the lower; the capacity of a Magistrate being transitory, and that of a Citizen permanent.—(Citizen! It would be as dangerous now to mention the word *Citizen*, as to mention the word *pikes*).—The latter capacity, it was hoped, would of course preponderate in all discussions, not only between the people, but the fleeting authority of the House of Commons itself. It was hoped, that being of a middle nature,

between subject and government, they would feel with a more tender and nearer interest, every thing that concerned the people, than the other remoter and more permanent parts of the legislature. Whatever alteration time, and the necessary accommodation of business may have introduced, *this character can never be sustained, unless the House of Commons shall be made to bear the stamp of the actual dispositions of the People at large.* It would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical phrenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should in all cases be wholly untouched by the opinions and feelings of the people out of doors. *By this want of sympathy they would cease to be an House of Commons.*" Mr. Burke goes on to state that "The virtue, spirit, and essence of the House of Commons consists *in its being the express image of the feelings of the nation.* It was not instituted to be a controul upon the People, as of late it has been taught, by a doctrine of the most pernicious tendency, but as a controul for the People." Thus we see that the true intent of the House of Commons is, not to act as a controul upon the People; the King and the House of Lords are the constitutional controul, and the Commons the voice and organ of the People. But how are they this organ, if they are not chosen by the people, which they now notoriously are not. To be convinced of this, it is only necessary to look at the Report of the Society of the Friends of the People, which they offered to substantiate by evidence at the Bar of the House of Commons, and which to this hour stands uncontroverted. Let us hear Mr. Burke on the House of Commons as it is now constituted. "An addressing House of Commons and a petitioning Nation; an House of Commons full of confidence, when the nation is plunged in despair; in the utmost harmony with Ministers, whom the People regard with the utmost abhorrence; who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant when the general voice demands account; *who in all disputes between the People and Administration, presume against the People; who punish their disorders, but refuse even to inquire into the provocations to them; this is an unnatural, a monstrous state of things in this Constitution.* Such an Assembly may be a great, wise, awful Senate; but is not to any popular purpose an House of Commons," This, he says, in his Thoughts on the Cause of the of the Present Discontents, coolly, soberly, and deliberately written during the American war; and the word *present* will as well apply to this time as to that. In another part of the same publication, he says—"It must always be the wish of an unconstitutional Statesman, that an House of Commons who are entirely dependant upon him, should have every right of the people entirely dependant upon their pleasure. For it was soon discovered that the forms of a free, and the ends of

an arbitrary Government, were things not altogether incompatible.—The power of the Crown, almost dead and rotten as Prerogative, has grown up anew, with much more strength and far less odium, under the name of Influence. An influence which operated without noise and violence; which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the Country equally tended to augment, was an admiral substitute for a Prerogative, that being only the offspring of antiquated prejudices, had moulded in its original stamina, irresistible principles of decay and dissolution.”—“Parliament was indeed the great object of all these politics, the end of which they aimed, as well as the instrument by which they were to operate. But before Parliament could be made subservient to a system, by which it was to be degraded from the dignity of a national council, into a mere member of the Court, it must be greatly changed from its original character.”—Remark that Mr. Burke here says, not the House of Commons but Parliament. Who does this? Not a poor shoe-maker, like the Prisoner at the bar, but a Member of the House of Commons, a man well versed both in political and philological distinctions; yet it is evident that he means the House of Commons, and therefore it is an abuse of words to say, that when, the word Parliament, occurs in the proceedings of the Societies, any thing is meant by it but of the House of Commons. So far is the Prisoner from being conscious of evil intention, so far from imagining he is engaged in a conspiracy to subvert the Constitution, that he writes a letter to the most eminent and able defender of the Constitution, a Member of Parliament and a Privy Counsellor (Mr. Fox), desiring him to present the Petition of the Society to the House of Commons. The answer to that letter, although stating that Mr. Fox is an avowed enemy to Universal Suffrage, he preserves among his papers, and it has been read to you as evidence in support of the prosecution. He writes also to the Society of the Friends of the People, whose sole object he knows to be a Reform of the Representation in the Commons’ House of Parliament. They also return an answer, never once suspecting that the object of the Corresponding Society is any thing but a Reform of Parliament, although they disapprove of their mode of pursuing that object. Then come the Crown Lawyers, and say, we understand better what is meant by these letters than those who write them, or those to whom they are written: you say they mean only Parliamentary Reform: we, the interpreters of your most secret thoughts, tell you that they mean, subverting the whole frame of the Government, and destroying the King. Mr. Erskine again referred to a passage from Mr. Burke, importing, that Ministers had made a lodgment in Parliament; that by laying hold of Parliament itself they had the power of obtaining their object in all cases, and upon all

occasions. The proposition contained in this passage was unqualified; it was not restricted to this or that occasion, but extended to all occasions; it asserted that the controul of the people over the Executive Power was wholly and absolutely lost. Not so, said the Defendants; they said nothing was lost but the controul of the People in the House of Commons. Would any man stand up and say he disbelieved this? If he did, nobody would believe him. The Counsel for the prosecution contended, that to attack the Parliament was to attack the King, because the King was an essential part of Parliament. By no means.—Who, in talking of Parliament in common acceptation, was supposed to mean the King? When these Societies attacked what they thought the abuses of Parliament, they meant what those who went before them had meant—the abuses in the representation, which might all be corrected without trenching in the least on the natural or political existence of the King. But, it was said, they talked of reforming Parliament by exciting the People.—Mr. Burke had said before them, that no remedy for the distemper of Parliament could be expected to be begun in Parliament: and that the People must be excited to meet in Counties and in Corporations, and make out, if they could, lists of those who voted, and on what side; in short, that, to obtain any correction of the abuses in the House of Commons, the impulse must come from the People. After a petition for Reform, in 1780, had been rejected, the Duke of Richmond wrote in a manner much stronger than those who were now accused of conspiring to lay hold of the Parliament by violence—He wrote, that the less Reform had been tried and failed; that not one proselyte had been gained; that the weight of corruption was such as to bear down every thing; that he had no hopes of Reform from the House of Commons; that Reform must come from the People themselves; and that they ought to meet more numerously than ever to claim their undeniable rights, Universal Suffrage and Annual Elections. How were the People to assert these rights after Parliament had refused to grant them? In this manner, the persons now under prosecution had done, and professed to do—not by rebellion, but by collecting and bringing before Parliament, the weight and influence of collective opinion. It was said that this war against the State had amounted to Rebellion—The assertion was unfounded—What was the State? The State was the Body of the People, with their Sovereign at their head; nothing was Rebellion that had not for its object the destruction or enslaving of the People and their Sovereign so connected, and he trusted he should never hear again that the People, all meeting, must mean to depose the King—that the King stood only supported by the few who called themselves the King's friends, and branded all others with the name of Democrats, or Jacobins, or whatever else was the nick-name of the day. It was clear from the beginning to the end that the Societies with

which the Prisoner was connected, spoke only of the Representation in the House of Commons; and he would maintain as they did, that they had a right to do so; and he knew that if the people were so met, they would be for the continuance of the Crown. It was their inheritance—what a dangerous principle it would be to lay down, that if the People were collected together, the necessary consequence must be the destruction of the King? The King's protection stood on the love of the People collectively, not on the adherence of this or that of description of men, and to say otherwise was a libel both on King and People. He was sorry to hear any man called a traitor for talking of the Rights of Man. The Duke of Richmond had long since said that they were the foundation of all legitimate government. Because men professing, but abusing the same sentiments, had destroyed every thing in France, it ought not to be fastened upon the Prisoner, that he, professing to claim the Rights of Man, meant also to destroy every thing in England. Before going into the Duke of Richmond's definition of the Rights of Man, he would mention one more in his recollection, because it arose out of a discussion, in which it was his fortune to bear a part. In the debates upon the memorable India Bill, one of the most popular topics of declamation against it was, its being an attack upon the chartered Rights of Men. Mr. Burke took fire at the expression. He said he did not know what was meant by the chartered rights of Men. He feared there was something in this more than was indicated by the affectation of the phrase. For what end, but the end of the moment, was the word *chartered* introduced, for the Rights of Mankind were founded in nature, and needed no charter to give them sanction. Chartered Rights he had always understood to be matter of compact, and to be forfeited by breach of compact; but the natural Rights of Man were sacred, and could neither be lawfully forfeited nor infringed. Let those who call themselves the champions of the authority of the Crown, take care that they do not pull down what they profess to support. Let them beware of weakening his Majesty's Rights, by the very means they adopted to confirm them. The ancient Kings of this country abused their government by cruel and infamous trials, by more cruel and infamous punishment, by packing Juries, by arbitrary imprisonments, by scandalous abuse of law, by depriving the People of arms; thus not only their Government but their persons became odious; they dreaded to assemble the People: and when King William issued his writs calling the people to meet, they did not meet; but had they met, the general consent of the people would have given Law to his accession. He recognized their rights under a name which all knew and all revered—the Bill of Rights—Rights which they always had; and here began the mischief in consequence of which the Court was now sitting. The denial of that

proposition brought Mr. Paine into this country. But for this denial, Mr. Paine never would have been an author amongst us. Why came Mr. Paine here as an author? To answer Mr. Burke, who denied the King's right to the Throne, by denying the right of the People to alter the succession. The French had pulled down a system of corruption and tyranny, so enfeebled by its own inherent defects, that it was ready to fall of its own accord. Mr. Burke denied their right to do this. Mr. Paine wrote an answer, and as a Republican, threw in much stuff about Monarchy, which had nothing to do with the main question. The first part of the Rights of Man was applicable only to France. But a book called an Appeal from the New to the Old Whigs applied it to the Government of this country. Mr. Paine arrived, and notwithstanding his first intentions, this attack exasperated his spirit, and he wrote a second part to his Rights of Man, in which he vindicated the Rights of the People in this or any other country to change their Government. Mr. Erskine said he would vindicate, in the presence of as many spies as could be collected, the Right of the People to oppose Despotic power, and to change the form of their government, when that form was radically and essentially bad. He had opposed, and would always oppose, the Right of Despots to prevent any People from forming a Government for themselves, of the sweet or bitter fruits of which they themselves must eat. If the People of France were to say to the People of England, "You shall have a Republican form of Government," the People of England would say, "No; we have already chosen our form of Government, a mixed form, a limited Monarchy, which we approve, and if we did not, we would receive a form of Government from no power on Earth but our own." The People of England have a right to change their Government if they please: they will not, if you use them well; but it is to the denial of this principle, all the calamities of these trials are to be imputed. The Duke of Richmond's plan proceeded on the Rights of Man.—His Grace, however, had not the merit of being the inventor. He adopted the ideas of Mr. Locke; and so did Mr. Yorke, in his speech delivered on the Castle Hill, Sheffield. Mr. Yorke indeed had hardly the merit of adopting, for he recited what Locke had written almost verbatim. Mr. Erskine read the Duke of Richmond's Letter to the Sheriff of Sussex, in 1780, in which he observed there was much good sense, although he could not agree to the whole. It concluded with asserting "that the People have rights, know they have rights, and will assert and obtain them." How obtain them? by peaceable means, which was all that the Prisoner had attempted. If they libelled Government, if they resisted the Magistrate in the due execution of his duty, if they committed any legal offence, they were amenable to legal punishment. But when men were considering on Constitutional means of effecting a purpose, they could not be found guilty of the crime charged in the Indict-

ment. Let no worse motives be imputed to the Prisoner than to so many others who had pursued the same object, much less the highest of all crimes, the crime of Treason. Suppose these Societies, which they never did, had resolved to petition Parliament no more. Was there no way for the people to bring about a Reform in Parliament by peaceable means? The attorney General seemed to think that Parliament was a part of the permanent Government, forgetting that it died a Constitutional death at certain periods, and that there was no necessity for reviving it in the same form. A voter had a right to say, "I will vote for no Parliament that is disposed to resist my rights; I will vote for none who will not call us, the People, their Constituents; I will vote for none who reject our petitions; I will not arm a few individuals with power to collect taxes, to pass coercive laws, and to be used only against ourselves. Such are not the true House of Commons of Great Britain. I will oppose such an House of Commons, not by tumult and insurrection, but by concurring in the appointment of Delegates to consider how my rights may be supported." Such language the People of this country had a right to hold; and how were they to act upon it? They might give weight to their Petition by shewing that it had the sanction of the public opinion. To collect this opinion they might say, "We will not assemble in numbers, for that might give rise to tumult; but we will assemble in our respective neighbourhoods, and appoint Delegates with instructions to confer with other Delegates; and thus without danger or inconvenience, we shall collect the public sentiment, and carry it to that place where we know it will be treated with respect. In this way we shall obtain our imprescriptible Rights." This they must do because a Court of Justice could not give them their imprescriptible Rights, consistently with the administration of the law; but a Court of Justice could do that which it was called upon to do in this case; it would not on any presumption of evil intention punish any man for legal acts done in pursuit of these Rights. The Attorney General seemed to think that petitioning the King on the subject of Parliamentary Reform, was to ask him to do that which his coronation oath forbid him to do, and consequently could only mean to compel him by force. Mr. Erskine said, he did not understand what was meant by this. He never heard it argued that, but for the articles of Union with Scotland, the Kings might not alter the composition of the House of Commons, as far as depended on calling in new places and persons to elect, without the consent of the House of Commons. This was the opinion of Mr. Locke, a man inferior to none his country ever produced, except Sir Isaac Newton.

Mr. Erskine here quoted the opinion of Mr. Locke upon this subject, from his Treatise on Government, B. II. chap. xiii. sect. 157—158. This book was written in answer to the Jacobites, who denied the right of King William to the Throne,

and when Dr. Sacheverell attempted to refute the doctrines it contained, by resorting to the exploded doctrines of Divine Hereditary Right and Non-Resistance, he was impeached by the Commons, and found guilty by the Lords.

Mr. Erskine then proceeded to recapitulate the evidence, observing that he had been obliged to omit many and important topics of general defence, in order to apply his attention to disembroiling the chaos which he had had no time to consider but by the indulgence given him by the Court and the Jury. The original Address of the Corresponding Society they would not have published, had they thought it criminal. They not only published it, but they sent it as a circular letter by post, addressed to various persons, and even a copy to the Secretary of State. On the tremendous evidence adduced in this trial, he observed that a Song found among Hardy's papers had been produced against him, without the shadow of proof that it had been written, published, or even approved by him. He had received it, as many things were received by men of all descriptions in this town, without knowing whence it came. It had been perhaps dropt down his area. If such evidence were held sufficient to affect a man's life, he (Mr. Erskine), who received and read papers of all sorts, had probably now in his house evidence sufficient to hang him and his whole family. The Address of the Society was founded on the Duke of Richmond's letter to Colonel Sharman, containing a plan, upon which men of high rank sat as Delegates in the city of London, with Aldermen of the city of London. A little time before the Convention met at Edinburgh, a Convention of Delegates from the Counties of Scotland met, of which the Chief Baron of his Majesty's Exchequer in Scotland was Chairman, and the Lord Advocate, the Dean of Faculty, and Sir Thomas Dundas, now Lord Dundas, sat as Members. An application had been previously made to Parliament, for a Reform in the mode of electing Members for the counties, and rejected. What did this meeting of Delegates according to their own advertisement? They met for the purpose of altering and amending the Law; they agreed upon certain heads, and resolved to send them, where? To Parliament?—No; but to the several Counties of Scotland to collect opinions and signatures. Was this meeting called treasonable? No; it would have been called scandalous to impute treasonable motives to any man who attended it. The object of the Corresponding Society on the first piece of evidence, *viz.* their own Address, was Reform of Parliament, by legal means. Would the Jury impute to his Client, against whom not a contumelious word respecting government had been proved, the shocking crime of Treason for supporting a measure, sanctioned by so many and so recent authorities? Let them read the lines prefixed to the Address of the Corresponding Society, and see

if they could find any thing in their subsequent proceedings to match them.

Unblest by virtue, government a league
 Becomes, a circling Junto of the great
 To rob by Law ; Religion mild, a yoke
 To tame the stooping soul, a trick of State
 To mask their Rapine, and to share the prey.
 Without it ; what are Senates, but a face
 Of consultation deep and reason free,
 While the determin'd voice and heart are sold ?
 What, boasted Freedom, but a sounding name ?
 And what Election, but a market vile,
 Of Slaves self-bartered—.

Yet these Verses were written by Thomson, under the roof of Lord Littleton, under the protection of the Prince of Wales, who perhaps thought that the Rights of the People were the surest guarantee of his own Rights.—By a man who had studied and understood the British Constitution, who venerated liberty but loved order—by a man whose works had been the delight of a nation, and to whose memory a monument was now erecting. If the objects of the Societies were treasonable, then every man who had been a Member of any one of them was guilty of Treason, and he held his life as tenant at will of the Attorney General. Of the Conventions either held or proposed, the Attorney General imputed the whole original sin to the London Corresponding Society. The contrary, however, was the fact. A Convention of Delegates from the Scot's counties had been held as above-mentioned at Edinburgh ; and the Societies in Scotland, on the usual principle of national vanity, resolved to imitate the example. They agreed on a Convention of their own, and invited the London Societies to send Delegates to it. Some of them sent Delegates, whose instructions were that they should concur in all Constitutional acts for a Reform in the Representation of the People. Every man was bound by the acts of his agent within the limits of his agency ; but if an agent sent to buy horses, should think fit to steal horses or commit Treason, his employer would be amenable neither for the Felony nor the Treason. By the same rule, no acts concurred in by those Delegates which were not within the letter of their instructions, could affect the Societies by which they were sent. Mr. Erskine arranged, and commented upon the whole of the evidence in a masterly manner, illustrating every objection he took to it by the most apposite and pointed remarks. He warned the Jury against giving their sanction to constructive Treasons, and repeated Dr. Johnson's remark on the acquittal of Lord George Gordon—“ I hate Lord George Gordon, but I am glad he is acquitted, because I love my country, and love myself.” He remarked with particular severity on the attempt to implicate Hardy in the

charge of providing arms, on no other evidence, than because a man at Sheffield had written a letter to him, offering to make pikes, and desiring him to forward another letter of the same tenour to Norwich, although it clearly appeared that Hardy had never read the letter addressed to himself to any body, nor forwarded the letter to Norwich; and on the still more atrocious attempt to implicate him in the business of Watt at Edinburgh, from the mere circumstance of Watt's having written a letter on the subject to Hardy, with whom he had never corresponded before, and from whom he had received no answer to his letter. If such evidence were to be tolerated, the most innocent, the most meritorious man living might be stripped of his fortune, reputation, and life by any ruffian who chose to address a treasonable letter to him, and get it conveyed into his house. If the witnesses for the Crown, not spies by profession, were worthy of credit, then the Prisoner was innocent—if they were not, then the testimony of the spies, admitted on all hands to be insufficient of itself, was left totally destitute of support. One or other side of the alternative must be taken. It was impossible to say that the witnesses for the Crown were to be believed where their testimony made against the Prisoner, and disbelieved where it made for him. If the testimony of the Spies could be supported by other Witnesses, whose evidence would not prove at the same time that the Prisoner never harboured the treasonable intention imputed to him, why were they not produced? For this reason only, that out of more than 40,000 members of the several Societies, not one could be found. On the character of Spies, having no eloquence of his own, he would avail himself of the eloquence of a writer who had much (Mr. Burke).

“ A mercenary Informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the Government, but they live at the mercy of every individual; they are at once slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they must depend.

“ In this situation men not only shrink from the frowns of a stern Magistrate; but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse and in social habitudes. The blood of wholesome kindred is infected — Their tables and beds are surrounded with snares. All the means given by providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair, and arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mankind, which alone can make us what we ought to be, that I vow to God I would sooner bring myself to put a man to immediate death for opinions I disliked, and

so get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail-distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him."

My whole argument, therefore, says Mr. Erskine, asserts no more than this, That before the crime of compassing the King's death can be found *by you, the Jury*, whose province it is to judge of its existence—it must be believed *by you* to have existed in point of fact.

Before you can adjudge A FACT, you *must believe it*—Not suspect it, or imagine it, or fancy it—**BUT BELIEVE IT**—and it is impossible to impress the human mind with such a reasonable and certain belief, as is necessary to be impressed, before a christian man can adjudge his neighbour to the smallest penalty, much less to pains of death, without having such evidence as a reasonable mind will accept of, as the infallible test of truth. And what is that evidence?—Neither more nor less than that which the Constitution has established in the Courts for the general admission of justice, namely, that the evidence convinces the Jury beyond all reasonable doubt, that the criminal *intention* constituting the crime existed in the mind of the man upon trial, and was the main spring of his conduct. The Rules of Evidence, as they are settled by law, and adopted in its general administration, are not to be over-ruled, or tampered with. They are founded in the charities of religion—in the Philosophy of Nature—in the truths of history, and in the experience of common life. And whoever ventures rashly to depart from them, let him remember that it will be meted to him in the same measure, and both God and man will judge him accordingly.

Gentlemen, these are arguments addressed to your reasons and consciences, not to be shaken in upright minds by way of precedent, for no precedents can sanctify injustice;—If they could, every human right would long ago have been extinct upon the earth.

If the State Trials, in a bad hour, are to be searched for precedents, what murders may you not commit; what law of humanity may you not trample upon; what rule of justice may you not violate; and what maxim of wise policy may you not abrogate and confound?

If precedents in bad times are to be implicitly followed why should we have heard any evidence at all? you might have convicted without any evidence, for many have been so convicted in this manner, murdered even by Acts of Parliament.

If precedents, in bad times, are to be followed, why should the Lords and commons have investigated these charges, &c. and the Crown have put them into this course of judicial trial, and even after an acquittal upon one, they might have attain-

ed all their prisoners by Act of Parliament?—They did so in the case of Lord Strafford.—There are precedents, therefore, for all such things;—But such precedents as could not for a moments survive the times of madness and distraction which gave them birth, and which, as soon as the spurs of the occasions were blunted, were repealed and execrated even by Parliaments; which, little as I may think of the present, are not to be compared with it.—Parliaments sitting in the darkness of former times,—in the Night of Freedom, before the principles of Government were developed, and before the Constitution became fixed.

The last of these proceedings as I before stated to you, and all the proceedings upon it, were ordered to be taken off the file and burnt, to the intent that the same might no longer be visible in after ages; an order, dictated no doubt by a pious tenderness for National honour, and meant as a charitable covering for the crimes of our fathers:—But it was a sin against posterity, it was a Treason against Society—for instead of commanding them to be burnt, they should rather have directed them to be blazoned in large letters upon the walls of our Courts of Justice, that like the characters decyphered by the Prophet of God to the Eastern tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice.

In times when the whole habitable earth is in a state of fluctuation, when desarts are statring up into civilized Empires around you, and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular governments, enlist themselves like the citizens of an enlightened world into whatever communities shall best protect their civil liberties, it never can be for the advantage of this country to prove that the strict unextended letter of our law is no certain security to its inhabitants. On the contrary, when so dangerous a lure is held out to imigration, it will be found to be the wisest policy of Great Britain to set up her happy Constitution, the strict letter of her guardian laws, and the proud condition of equal freedom, which her highest and lowest subjects ought equally to enjoy. It will be her wisest policy to set up these first of human blessings against those charms of change and novelty which the varying condition of the world is hourly holding out and which may deeply effect the population and prosperity of our country — In times when the subordination to authority is said to be every where but too little felt, it would be found to be the wisest policy of Great Britain to instil into the governed an almost superstitious reverence for the strict security of the laws, which from their equal administration, can seldom work injustice, and which from the reverence growing out of their mildness and antiquity, acquire a stability in the habits and

affections of men far beyond the force of civil obligation?—whereas severe penalties and arbitrary construction of laws intended for ease and protection, lay the foundations of alienation from Government, which, at all times is dangerous, but at this time is certain and sudden ruin.

Cultivate the old maxim of the Church, *sursum corda*; look to the hearts of all your subjects, and do not entertain so stupid an imagination as that in days like these, a country can be preserved by corrupting one half of the People to defame, bully, and persecute the other. At a time when England may be put to great difficulties to support herself, even when the whole nation draws together with one heart and accord, is it wise at such a time to set up Lawyers to tell us that every man who sees and feels, and is determined to assist in removing the corruptions which are the parents of these calamities, are traitors to the Sovereign, and plotters of his death? Gentlemen, if this doctrine is established by your verdict, you do not leave your Sovereign, the King, one half his subject and although you may, in the ordinary course of things, keep the peace in England upon these principles, by armed associations and the terrors of legal tribunals, yet, if ever the independence of the Nation were assailed by foreign force, in one hour would desolation come upon you. Look to the fruit of these miserable factions and divisions in Brabant! If the late Emperor Joseph had given to his subjects fully and at once, the *Joyeuse Entrée*, their antient Constitution, derived from the good Duke of Burgundy, to obtain which, I remember the same movements as in this country for the reform of Parliament, they would—I know what I say—it is not what I have heard or read of—I have seen the process of the thing of which I am speaking—they would have risen in a mass to maintain their own liberties, and their Prince's throne, thus interwoven together, and the French, like the Giants of Antiquity (and they are indeed the Giants of modern times), when they attempted Heaven, would have been rolled and trampled in the mire of their ambition. But instead of this concession in due time, the Prussian army marched into Brabant, and all was peace,—but it was such a peace as there is in Vesuvius or *Ætna* before they vomit forth their lava, and roll their conflagrations over the devoted habitations of men! When the French approached, the fatal effects were seen of a Government of constraint and terror; the well affected were dis-spirited, and the irritated were inflamed into fury. At that moment the Archduchess fled from Brussels, and the duke of Saxe Teschen was sent to offer them the *Joyeuse Entrée*. But the season of concession was past away; and the Throne of Brabant has departed from the house of Austria—I fear, for ever! In the same way a far more important and splendid Throne departed from his Majesty's illustrious House I will

not give you my own words ; I will again refer to the almost divine and immortal oration of Mr. Burke :—

“ For that service, for all service, whether of revenue, trade, or empire, my trust is in her interest in the British Constitution. My hold of the Colonies is in the close affection which grows from common names, from kindred blood, from similar privileges, and equal protection. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of Liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship Freedom, they will turn their faces toward you. The more ardently they love liberty, the more perfect will be their obedience. Slavery they can have any where.—It is a weed that grows in every soil.—They may have it from Spain ; they may have it from Prussia ; but, until you become lost to all feeling of your true interest and your national dignity, Freedom they can have from none but you. It is the spirit of the English Constitution which pervades, feeds, unites, invigorates, vivifies every part of the Empire, even down to the minutest Member. Is it not the same virtue which does every thing for us here in England ? Do you imagine that it is the Land-tax Act which raises your Revenue ; that it is the annual vote in the Committee of Supply which gives you your army ? or that it is the Mutiny Bill which inspires it with bravery and discipline ? Not surely no ; It is the love of the People— it is their attachment to their Government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber.” —Such was the language of that sublime writer, whose opinions, if they had been followed, would have done more than saved you America ; it would have saved you the affections, and admiration of mankind. Instead of this you were made to persevere in that horrible contest, to procure the means of extending that corruption at home, over those whom Mr. Tooke is represented to have called the Skip Jack Nobility, and in so doing you lost the Colonies for ever.

My wish and my recommendation is not to conjure up a spirit among us to destroy ourselves, by bringing on the tyranny of a French tribunal, where an accusation is enough to bring its object to the guillotine. If we keep to the old and venerable rules and laws of our forefathers ; and let a jury of the country do the duty they owe the public, to themselves, to posterity, and to God, to preserve in law the life of a man who only asks it of them on the terms they would, in their turn, ask their own. I shall now conclude with a fervant wish and a fond hope, that it may please God, who guides the world, moulds governments at his will, and who governs us all in

justice and in mercy; from whose care and bounty has arisen the prosperity and glory of this happy Island, to enlighten and direct your minds! To your care I now commit my client without fear, being confident that you will do him justice.

Mr. Erskine spoke very near six hours, and then signified his intention of calling witness in behalf of the prisoner; but the Court perceiving the strength and spirits of the learned Gentleman much exhausted, they adjourned for one hour.

The first witness called in the defence of the prisoner, was *Lorimond Goddard*, who had frequently conversed with the prisoner on the subject of politics, but had never heard him make use of any expressions hostile to the Constitution of this country. He was present at the meetings at Chalk Farm, and in the Globe Tavern, and knew that Margarot and Gerald were appointed delegates to Scotland.

Mr. Attorney General repeated the chorus to a song sung at the societies, and asked if he did not know the song to which it belonged;

Plant, plant the tree,

Fair Freedom's tree

'Midst blood and wounds and slaughter, &c.

The witness answered in the negative; adding, that the Attorney General seemed to know more of the song than he himself did.

This observation occasioning some laughter and noise in Court, the Lord President warmly expressed his disapprobation of such conduct, and directed the officers immediately to take into custody any person who should again be found offending against the solemn dignity of the Court.

The cross-examination being continued, it appeared that the witness had been in possession of several songs written by Thelwall, but he declared that he did not know any of their contents to be of a criminal nature, nor did he remember the titles even of the songs.

Francis Dowling had been a member of the London Corresponding Society, whose object was to obtain a Reform in Parliament by legal means. He knew *Mr. Hardy* to be a man of a peaceable, orderly, and pious disposition.

On his cross-examination he said, he had heard in the Society that a man was to be paid for sticking up bills in the night, but he was a stranger to any design of the members being provided with pikes.

Alexander Will was a member of the London Societies, and whenever he attended, the members conducted themselves with "respect, honour and delicacy towards the King." He did not believe the Societies to have had any design of opposing Government. He believed the prisoner to be a well-meaning and inoffensive man.

William Sabine spoke to same effect as the former witness for the prisoner.

The last witness being cross-examined by *Mr. Law*, he said he was in independent circumstances, his property sometimes laying in his pocket, sometimes in hand, and sometimes in the funds. After the question as to his profession had been repeatedly put to him, he said he was a perfumer, and about twelve years ago had followed the employment of a hair-dresser.

Alexander Frazer was a member of the Corresponding Society, whose object was a Reform in Parliament by constitutional means. He said Hardy was a man of unexceptionable good character.

William Barklin, a shoe-maker, had known the prisoner thirty years; he had been a servant to this witness for seven years, and had quitted his service about three years since. This witness, who had never been a member of any political Society, gave the prisoner an unexceptionable character.

Mr. Oliver, a Dissenting Minister, had known the prisoner three or four years, and had been told by him, that the object of the Society of which he was Secretary, was to obtain by proper and peaceable means, a Reform in Parliament, on the plan proposed by the Duke of Richmond and Mr. Pitt in 1782. He believed the prisoner to be a man who feared God and honoured the King. He was never a member of any political meeting.

Daniel Stewart, formerly Secretary to the Society of the Friends of the People, became acquainted with the prisoner in December 1792, and they very frequently conversed together. They differed in opinion on this one point only: Hardy thought the Duke of Richmond's plan of Reform the best, and that it would be adopted; but the witness thought otherwise. He did not believe the prisoner to have any view than to procure a Constitutional and Legal Reform. He gave the prisoner the character of a peaceable and orderly man, perfectly harmless in his manners.

Peter M. Bean had known the prisoner seven years, and had always found him to be of an amiable character both civil and religious. On his cross examination he said, he became a member of the Corresponding Society at its first institution, and had continued a member two years.

John Boak said the prisoner was a quiet, peaceable and strictly honest man. He, the witness, had been a member of the London Corresponding Society for two years.

The Rev. Mr. Stevens, a Dissenting Minister, had known the prisoner seven years; he regularly attended his congregation, and had attended before the witness became Minister. The prisoner was an orderly, quiet, and peaceable man, and he had ever found him a man of conscience to God and man.

John Carr, John Stephenson, Alexander Greg, William Henderson, Alexander Gordon, and Matthew Dickey, all of whom had known the prisoner several years, concurred in giving the prisoner an excellent character as a man of a peaceable, orderly, and good disposition.

Mr. Gibbs stated to the Court, that as the evidence with respect to character was nearly gone through, and his learned friend, *Mr. Erskine*, was much fatigued, he hoped the Court would indulge them by adjourning.

The Lord President said, it was much the wish of the Court to make all possible progress in the trial, and wished the whole of the evidence as to character might be gone through this night.

Mr. Erskine observed that if they proceeded further, they might go into evidence, the admissibility of which might occasion argument, in which, in his present exhausted state, he should not be able to take his share; and therefore he wished the indulgence of an adjournment.

The Attorney General having assented to *Mr. Erskine's* proposition, at one o'clock in the morning, the Court adjourned until eight on Monday morning.

A few minutes before the adjournment, loud and repeated acclamations were heard from without the Court, which were not silenced until the civil power interfered. The noise was occasioned by some persons having reported among the populace that the prisoner was acquitted.

Monday, Nov. 3.—Sixth Day.

The Court met at half past eight in morning, and proceeded on the evidence for the prisoner.

Mr. Erskine stated, that he meant to call a witness to prove, that a letter, which had been given in evidence on the part of the prosecution, written by one *Davidson*, who had resided at *Sheffield*, to the Secretary of the *Norwich Patriotic Society*, and enclosed in another which was sent to *Hardy*, was found in *Hardy's* possession, unopened, at the time he was taken into custody.

Chief Justice Eyre observed, that *Hardy* had no right to open the letter that was enclosed for the Secretary at *Norwich*; but what constituted the weight of the proof in favour of *Hardy* was, that he had not sent that letter to *Norwich*.

David Martin said, he was an engraver, and lived at *Sheffield*. He had resided there above twelve years, and carried

on trade. He had become a member of the Sheffield Society within three months of its commencement, and had continued to be a member till the time that Camage and others had been taken up by Government. He said, his object was to obtain a Reform in the Commons House of Parliament, by legal and constitutional means; and from all that he observed, and saw, in the course of his attendance on that Society, he had no reason to suppose their views were different from his. He had not the most distant idea that the Society meant to attack the Government by any armed force. He was a Member at the time they sent a Delegate to the Convention that assembled at Edinburgh. The object of the Sheffield Society, in sending their delegate was, in order to co-operate with the other delegates of the different societies, to produce the end already mentioned, namely, a Reform in Parliament. After the petition, signed by a few individuals, for a Parliamentary Reform, which had been presented by Mr. Grey, had been rejected, they thought the general sense of the people, as far as it could be collected, would make an impression on the House, and induce them in their justice to grant the prayer of the petition. If he had imagined that those gentlemen, delegated from different societies, had been to constitute a Convention at Edinburgh, for the purpose of devising the means by which the Parliament should be forced to grant a Parliamentary Reform, he should not have continued a Member of the Society. He did not think it was the intention of the Society to affect the King in his person, his state, rule, or government, in this kingdom. There was no intention to touch the House of Lords. He was at Castle-hill when Mr. Yorke made a speech there.

On his cross examination, he said, the persons who principally managed the business of the Society, were a Committee. He knew a person of the name of Gales. He said, he (the witness) was an associated member of the London Constitutional Society, in March, 1792. He knew the proceedings of the British Convention, which was held at Edinburgh, as they appeared in the Gazetteer. He did not altogether approve of the proceedings of the Convention, particularly that part relating to a Secret Committee. They had no Secret Committee at Sheffield. He did not hear that a resolution had been voted at Castle Hill, not to petition the House of Commons. There was a great number of people assembled there, and he stood at the outside of them, and did not hear it; but, if he had heard it, he might perhaps have approved of it. He knew Mr. Yorke. He believed he was not a Sheffield man, but he did not know what brought him to Sheffield. He had frequently heard him, both in public and in private, thought he could not say he was very intimate with him, or that he entertained exactly the same opinions

on Parliamentary Reform. He could not recollect the specific difference between him and Mr. Yorke. He said, he did not know who was the editor of the Patriot, though he had heard that it was Mr. Campbell Brown, their delegate to the Scottish Convention. He thought Mr. Brown was a peaceable, well-disposed man. Letters had occasionally passed between their Society and the Society of Stockport, and he believed they were associated for the same peaceable purposes with themselves. He knew that a motion was made on Castle Hill, to address the House of Commons; but he did not know it was made by contrivance, to be negatived.

On re-examination, he said, that whatever Mr. Campbell might do, while he attended the British Convention at Edinburgh, the Society gave him no power to act but by legal and constitutional means. He for one would not have consented to send him to Edinburgh, if he had conceived that he would have transgressed the bounds of the law. The proceedings at Castle-hill, and Mr. Yorke's speech were published, and the witness said he had read the speech after it was published.

William Oakes was next examined. He said, he was a plater, and lived at Sheffield, with his father, who was a baker. His evidence was exactly to the same effect with that given by the last witness:—that his object was a Parliamentary Reform by a petition to Parliament; and that their object only extended to a reformation of the House of Commons. He also added, that a few months back he heard of pikes and arms at Sheffield. The Society apprehended danger from the opposite party, by repeated threats, and by the ill usage which individuals had received from them. Individuals, and not the Magistrates, took upon themselves an authority which the Society thought they had no right to, and it was complained of in the Society, as a thing to which they had no right. He said he was sensible in whose presence he was speaking; and declared, upon his solemn oath, as he stood in the presence of God, he could solemnly affirm, that it was never thought of in the Society to arm as a body to attack Government. If such had been the object of the Society, he must have known it.

On his cross-examination, he said, he did not mean to insinuate that twelve members of their Society were not associated with the London Corresponding Society though he believed that they were not. He was present when Paine's Rights of Man were introduced into the Society, but that was before they were proved to be a libel. These books were circulated by the members of the Society, though he did not know that they were circulated in great numbers. They did

not mean to attack Government, and if Government attacked them, they would have submitted.

Mr. D. Stuart, Secretary to the Society entitled the Friends of the People, said, the date of the declaration of that Society, was April 11, 1792, and was published about the end of that month.

[*This declaration was read, and also the long list of names who had subscribed it.*]

On the 12th of May, the Society of Sheffield having observed the declaration of the Friends of the People, their Secretary (*Mr. Samuel Ashton*) wrote a letter to *Mr. Stuart*, stating, among other things, that their object was the very same with that of the friends of the People, namely, the obtaining a Reform in Parliament, so as to place the constitution on its true principle. On receiving that letter from Sheffield, the Society of the Friends of the People sent an answer to it, signed by *Mr. Grey*, dated the 24th of May, and addressed to *Mr. Ashton*, secretary to the Society for Constitutional Information at Sheffield, approving of their letter, and stating "that the object of all the proceedings of the Friends of the People was to put the constitution on its true principles, by a temperate reform, and in which they disavowed all desperate measures." He did not know *Mr. Hardy* was a member of the Constitutional Society. On the 26th of May, the Society at Sheffield wrote to the Constitutional Society, "that they had received a letter from the Friends of the People, whose principles were not according to the Rights of Man, and that they would not have any more correspondence with them but only in as far as the Society for Constitutional Information would permit." About twelve months ago, *Mr. Stuart* said, *Mr. Ashton* was in town, and called upon him. On the 1st of May, the Society of the Friends of the People expressed their reasons for having nothing to do with the constitutional Society, and stated to them that they would have no more correspondence with them. *Mr. Stuart* could not say, whether *Ashton* corresponded with the Constitutional Society. About twelve of the respectable gentlemen, who had been members of the Society of the Friends of the People, might have quitted it. *Lord Daer*, the eldest son of the earl of Selkirk, was a member of the Friends of the People, and was chosen a delegate to the British Convention at Edinburgh; and yet the Friends of the People had never taken any notice of that circumstance; no motion had ever been made on that account, to banish him the Society.

William Jusenap said, he was a razor maker, at Sheffield, and was a member of the Society very nearly to the last. His object was the reformation of the Commons House of Parliament, and the means by which he expected to obtain that reform was, by petitioning the House of Commons; the idea

he formed of the business was on the plan of the Duke of Richmond. He had no reason to believe that the object of the Society was different from his own. As to arms, he had never heard of such a thing in his life, either to attack Government, or to resist it. The rest of this man's evidence was substantially the same with that of Martin, Oakes, &c. and therefore we shall not detail it.

Edward Smith said, he lived at Sheffield, and was a cutler. He was also a member of the Society. He never heard of arming till a hand-bill was circulated in the streets, recommending it to the people of Sheffield to arm themselves against those who were of different persuasions from themselves. The Society had no intention to arm themselves with pikes, or they might have procured ten thousand in one day.

His Grace the Duke of RICHMOND was here examined. *Mr. Erskine* handed up a printed paper to him, and asked if that was a copy of his letter to Lieut. Col. Sharman, of the Irish Volunteers. His Grace, on looking at it, said, it was extremely difficult for him to say that that paper was precisely the letter he had written to Col. Sharman. He recollected there was a printed edition of that letter, which was mutilated, and therefore, whether the paper was that copy or not, his Grace could not take upon him to say.

That paper, which had been circulated about Sheffield, was compared with a genuine edition of the letter, and, except in a very few words, was exactly the same.

After the Duke of Richmond's letter was read, *Mr. Erskine* offered a piece of evidence on the part of the prisoner, which was opposed by *Mr. Attorney General*. *Mr. Erskine* wished to produce witnesses to prove what they had heard the prisoner at the bar declare in conversation, with respect to a Reform of Parliament, and what his sentiments were with regard to a Convention of the People, &c. After a very learned argument, *Mr. Erskine* and *Mr. Gibbs* on the one hand, and the *Attorney General* and *Solicitor General* on the other.

Chief Justice Eyre said, the Court went a certain way with *Mr. Erskine*. Nothing was so clear as that all declarations that applied to the facts of the case, were evidence against the prisoner, though not evidence for him. It was presumed that no man would declare any thing against himself that was not true—That was the general rule; but if the question here was as his Lordship thought it was, what were the political speculative opinions which the prisoner at the bar entertained touching a Reform of Parliament; His Lordship was of opinion that that might very well be learned and discovered by the conversations which he had held at any time,

or any place. If his declarations were meant to apply to a disavowal of the particular charge made against him, as for instance, if he had said to some friend, when there was a plan for holding a Convention, that it did not mean to affect the King and the Government, such a declaration could not be given in evidence in favour of the prisoner though it would be evidence against him, because it was supposed he would not have made such a declaration unless it was true.

Mr. *Stuart* was again examined, and said, that in all his conversations with Mr. Hardy on the subject of a Parliamentary Reform, he always adhered to the Duke of Richmond's plan, and stated that to be the whole object of the Society. He was the more particular in attending to his opinion on that subject, because he differed from him. As to the prisoner's character for sincerity and truth, Mr. Stuart believed him to be a very sincere, and a very honest man.

Mr. *Stuart* was then examined as to what he heard from Hardy respecting his intention and opinion of the Convention proposed to be called. He said, he had reason to believe, that he meant only to procure Parliamentary Reform by peaceable means.

Andrew Ferguson was called, and asked whether the book produced was an account of the minutes of the Scottish Convention ?

The Court thought it was inadmissible evidence, and was of course rejected.

Joseph Shetton said, he lived at Derby, was a Member of the Derby Society. Their object was a Reform in the Commons House of Parliament. They had no design against the other Branches of the Legislature, for when their petition was rejected, they never met afterwards.

Mr. *Erskine* said, he wished to take the opinion of the Court upon the admissibility of another piece of evidence. He wished to produce the resolutions of the Reform Societies, in 1780. His purpose for so doing was this. It was shewing that the persons of the present day were following the example of great and illustrious men in their own country, and not imitating the conduct of men of another country.

The Court was of opinion, it was no way connected with the present cause, and therefore not admissible.

Mr. *Sheridan* was then examined, he said, he had seen the prisoner in March, 1793. He sent to him respecting a motion he intended to make in the House of Commons. He had given notice, " That he would move for a Committee to enquire into the practices of these Societies ; and the prisoner, at his request, offered him the free use of all the papers in his possession.

The attorney General asked, whether he had shewn, or offered to shew him any journal of the proceedings of the Society ?

Mr. *Sheridan* replied, he did not mention a journal, in particular, but generally all the papers in his possession.

Mr. *Francis* was next examined. He had seen Hardy; he came with a Committee of the Society to his house, with a Petition which they desired him to present to the House of Commons. He read the petition, and thought the prayer of it was improper. It required Universal Suffrage and Annual Parliaments. He told them he would present it, but stated his objection to the prayer of it. Hardy seemed a remarkably quiet and steady man.

Here the evidence on behalf of the prisoner closed.

Mr. *Gibbs* then rose, and spoke a few words indistinctly. He appeared considerably agitated; and after a few moments sunk down. In a short time he was so far recovered, as to be able to address the Jury. He said, he need not say to them, he was overpowered with anxiety. He was pressed down with the weight of this great cause; a cause to which no human powers were equal. Even the infinite abilities of his Learned Friend had sunk under its pressure—[Here he burst into tears]. He felt himself how unequal he was to the task but all he could do he would do, in discharge of his duty towards his client. He did not wish to spare himself; he did not wish to secure his health; but that mass of evidence brought forward, rendered it impossible for any Advocate fully to discharge his duty. All the labour he had used had not enabled him to comprehend the enormous mass introduced in this cause. The annals of this country, he believed—the annals of the world, could not shew a trial parallel to this. He would desire the Jury to recollect, that in the outset of this cause, the Attorney General could not state his evidence with the necessary comments, in less than nine hours. To suppose that it might have been compressed into less compass, was to suppose that the time of the Court had been unnecessarily wasted. This never could be the case; and therefore the conclusion was, that the thing itself required all that had been said upon it.

There were two things he would press upon their recollection: 1st, the law; and 2d, the indictment. The law was founded upon a statute, and the indictment contained a statement of the facts. The fact first stated, was the compassing the death of the King, and to the effecting of this purpose were stated other acts, 1st, the calling a Convention, or the procuring a Convention to be called, and a conspiracy to levy war, thereby occasioning a rebellion, for the purpose of dethroning his Majesty. The indictment was founded upon the statute of the 25th of Edward III. and must be strictly according to the law as there laid down. For although in common the practice should be received as evidence of what the law was, yet in this case it must be strictly conformable to the

statute. It was there declared what things should be Treason; and by an express clause it never should be extended beyond the letter. The compassing and imagining of the death of our Lord the King, &c. should be Treason. He would now read to them the opinion of that most learned and able lawyer, Lord Coke, in exposition of this Statute; He said, that in this case there ought to be direct and positive proof; that it ought to be manifest, and not drawn by inferences, but proved by reputable witnesses; and that the intention should be clearly and manifestly shewn. He would also shew them the opinion of other great lawyers, the one in judgment upon a case of Treason, and another acting under it. In the case of Lord Russel, where he was indicted for Treason in compassing the King's death, it was proved in evidence, that he had planned to disarm the King's guards. Lord Chief Justice Pemberton, in summing up, told the Jury, that they would consider whether there existed any design in the prisoner to compass the King's death. He did not state the design of seizing the King's guards to amount to the crime of compassing the death of him, but left it to the Jury to consider, whether they would not draw the inference:—The fact was, they did conceive that it was evidence of his intention, and so found him guilty. It was remarkable, in this case, that the Chief Justice told them, they had no evidence such as they had in the morning (in the morning of the same day the Rye House conspirators were tried), where the fact to be done proved the intention. But they would judge of it from what appeared in evidence. This was the proceeding in the case of Lord Russel, and no one supposed that he had been treated with lenity.

He had stated the law, and would now turn to the charge. The charge was, that the prisoner had conspired to procure a Convention; or had agreed, and been party to consultations for procuring a Convention, the purpose of which was, to be the destruction of the King, and the subversion of government. In bringing forward this charge, the counsel for the Crown had bound themselves to one of these two things—either to prove all Conventions were in their nature unlawful, or that this particular Convention were to associate for the purpose of compassing the King's deposition.

In answer to the first, he would merely observe, that we had heard of many Conventions in this country, and never were they supposed to be illegal or unconstitutional. In fact, they had undertaken, to prove, that, although Parliamentary Reform was the ostensible object of the Societies, yet, in fact, their real and concealed purposes had a much wider extent. They (on behalf of the prisoner) contrary to that, meant to insist, that Parliamentary Reform was the real as well as the avowed object of the Societies. They thought that corrup-

tion had proceeded such lengths as to cause many great and pressing evils; among which they ranked the long duration of, and unequal representation of the people. In Parliament; and after their petition had been, he might say, contumeliously rejected, they began to devise some other means. They supposed, if they could gain the united voice of the people upon this subject, that Parliament would then grant what they had refused to their separate and individual application. This the language of their resolutions imports.

The way which this Treason was attempted to be proved was, by the existence of a general plot of all the Societies, and in which the prisoner was implicated. This did not go in the least to affect him particularly. In evidence of this general conspiracy, was brought forward that immense mass of papers which had already been displayed. It was impossible to comprehend the whole of this evidence, therefore he could not particularly go through it. He admitted, many of the resolutions were in a language indecent and improper. No man could stand up and defend them, but they did not amount to overt-acts of High Treason. He defied the gentlemen on the other side to prove them to be evidence against Hardy, of compassing and imagining the death of the King. He again admitted they were indecent, but that was not High Treason; and if the papers were to be taken, take the whole of them, and they would be found to contain strong sentiments in favour of Annual Parliaments and Universal Suffrage. If they erred in their opinions of the utility of these points, it was the error of much wiser men than themselves. Another objection brought against these men was, the use of French terms. This objection he thought of no importance, and he dared say the gentlemen of the jury would throw it entirely from off their minds.

But the approbation given to the French Revolution was strongly argued to be a convincing proof of the intentions of these men. Most unquestionably, Mr. Hardy had rejoiced at the French Revolution, most men, in its commencement, had rejoiced. It was natural to us, as freemen and Britons, to rejoice at a nation emerging from slavery, and regaining the rights due to them by nature. The approbation was general, but it did not follow that a man, who approved the general principle of the revolution, approved of every particular act since done, or that he wished to introduce into this country every thing which had been done there. The situation of the countries were by no means similar. The King was there accused of having violated the Constitution he had consented to accept. We had no overbearing nobility here, who plundered and oppressed the country. Here the King was loved and admired for his virtues and respect to the Constitution. The hereditary nobility were viewed with re-

verence and respect. It could not be presumed those things were necessary here, where there did not exist the least parallel circumstances. But, say they, an union with the French Nation was desired; and for what purpose did the resolution express a wish for that union? It was to prevent the destrutive calamities of war; and could the calamities of war be avoided. certainly it were a thing much to be wished.

The next argument was drawn from the resolution for inserting the speeches of *Roland* and *Barrere*. But did that constitute High Treason? His Client might even approve of the conduct of *Roland* and *Barrere*, under the circumstances which pressed upon them; but it did not in the least apply to this country, where circumstances were so widely different. It would be monstrous, upon this sort of evidence, to accuse the prisoner with a design against the life of his Sovereign.

But, said the gentlemen on the other side, they must have meant force, because they resolved to petition Parliament no more. He conceived, in the very nature of the case, such a resolution must precede the calling a Convention; because they had hitherto found their endeavours fruitless, they sought means to raise the voice of the public still louder, hoping that, when it should be found to be the universal wish of the people, that their request would meet with compliance. He would call the recollection of the Jury to the protest signed by that great constitutional lawyer, Lord Camden, with thirty two other Peers, in which the right of associating for redress is most distinctly stated, and those associations held to be perfectly legal. Another ground of accusation was, the proceeding of the Scotch Convention; and the chief force of their argument was direct against Art 7. which expresses their resolution to oppose any law which they conceived repugnant to the first principles of the Constitution. This, though he admitted it to be improper, yet it was not High Treason, and he had the express authority of Lord Holt, as delivered in the case of Sir John Friend. He lays it down as express law, that a conspiracy to obtain the repeal of any particular law is not High Treason, *a fortiori*; therefore—a conspiracy to prevent the passing of any particular law, cannot be Treason—Much less can it be evidence against the prisoner of compassing the King's death.

Something was due to the weakness of human nature, for the strong language of their resolves. They were told, from high authority, that the punishment of their delegates was unjust and illegal. It was not wonderful, therefore, with their minds heated as they were, that they did not always use that language which was fitting and becoming. We had also been told, that the act of the delegates themselves amounted to high treason; but this, he thought, could not be warranted

in law. For he was sure, if they had been guilty, the judge who tried them for misdemeanors, would have been bound to have directed an acquittal of that part of the charge, and had them again indicted for Treason. It was the law, that when, upon that a lesser offence, a greater was proved, that the person should be acquitted, and tried upon that charge which the evidence substantiated. If therefore, it was not Treason in the principals themselves, how could it be Treason in the man who was at a distance, and had no connection in that immediate part.

Thus far he had gone over the general topics ; he would now notice the parole evidence, and examine how far it substantiated the particular facts charged against the prisoner.

Mr. Gibbs accordingly here went through an investigation of the evidence relating to guns, pikes, &c. but as Mr. Erskine has already gone fully into this part, we forbear being very minute. Relative to arms, he remarked, that on the evidence called by the Crown, it appeared that the pikes were originally prepared at Sheffield, and by the concurrence of all, for self-defence ; as they had good and reasonable grounds of presumption that they would be attacked. Their opponents in politics had proceeded to violent lengths, even so far as to fire into their houses. Under these circumstances he justified the preparation of arms, and asserted the legality of their conduct, but it did not appear that there was any connection between them and Hardy, the only proof being a letter found in his custody ; but which it does not appear he ever answered. He went briefly into the evidence respecting guns and knives. Franklow's association he insisted was public, and that no inference could be drawn that those arms were designed to act against the government—sixty guns, three dozen pikes, and less than half a dozen French knives were the arms prepared to resist all the force of Government.

He commented also upon the evidence of Groves. He insisted that the information of spies was to be received with the utmost caution. They were men who became important according to the magnitude of their evidence, and were consequently interested to magnify every thing under their observation. He adverted also to the circumstance of Watt, and insisted that if those men who sat at the same meeting were not considered as guilty, how was it possible to affix any to Hardy, with whom it was not in evidence there was the least trace of a correspondence ? The whole of these circumstances he considered as inadequate to the purpose of affixing any criminality of intention upon the prisoner, and he was sure the jury would keep their eye fixed upon the crime charged ; and unless they found that, they would not find the prisoner guilty. If the acts of the Convention were Treason, Government held out a snare to others, by not prosecuting

them as such. It induced these men to commit those acts which they could not possibly conceive to come within the description of Treason.

Mr. Gibbs said, his wish was to prove to the Court, and to impress the minds of the Jury that in the case of the prisoner nothing was to be left to presumption, nothing to conjecture. All the evidence against the prisoner was complete. All that exists about arms, all that existed in the Convention is fully known. The spies of Government were active in every action, and present in every place. All that the Jury could possibly know is made known to them by the evidence for the prosecution. Whatever degree of criminality is in the case, has been long since published in the face of day. He did not mean to say that publishing those acts, if illegal, had made them less illegal, but he meant to make this use of their publication, that they came from men who were not afraid of what they had done, and that they were done by those men *bona fide* as their acts and designs. If they were thought illegal, they were ready to submit them to a court of justice, and abide by a legal decision on them.

It therefore may evidently be discovered, that their object was a Parliamentary Reform in the Commons. This point is fixed by the oath of all the witnesses, both those of the Crown and those of the prisoner. All concur in that; and that the Convention was called for that purpose alone; not to effect their object by force, but to collect the voice of the people, and thence to carry up that voice to Parliament. That this was the real object of the prisoner, he would prove from records, the most clear and indisputable. From the evidence of Mr. Sheridan, and Mr. Francis, it would appear, that this object was bounded within the limits of a Reform, and this and this only was the real object. As a proof of this, Mr. Gibbs said, that at the time when the Parliament was assembled together, and the Militia called out in an extraordinary manner, it was assigned as a reason that the general apprehensions from evil and designing persons was the cause. An enquiry was then challenged, and the prisoner at the bar made a tender into the hands of Mr. Sheridan of all such papers, plans of reform, and the correspondence thereon. That he complained of the treatment which he (the prisoner) and those of his Society had met with in the public houses where they peaceably met, and from whence they were driven out by the publicans, who said, that if they received them in their houses, they would be deprived of their licenses, and on this account the prisoner wished for an investigation. This seemed in his mind a *boni fide* confirmation of the openness and consistency of their avowed intentions, and not a pretext or veil to cover Treason and Sedition. By Mr. Francis's evidence, it appeared, that the prisoner had conversed with him on the subject of Reform, and wished Mr. Francis would, by

a motion in the Commons, introduce the plan of Universal Suffrage and annual Parliaments. Mr. Francis paid due attention to the prisoner, from his conduct and decent deportment, and remarked on his steady and reasonable disposition. The principles of this Reform were exactly those of the Duke of Richmond, and to some objection which Mr. Francis opposed to the form of the proceedings, the prisoner said, that he left the forms to the wisdom of Parliament, but still rigidly adhered to the plan of Universal Suffrage and annual Parliaments. This, which was said to be the pretext was, to his mind, the fullest proof that the prisoner was under the strongest conviction of his favourite scheme of reform. And what is this scheme of reform?—It is that originally laid down by the Duke of Richmond, and that with which the prisoner was passionately possessed. The ideas of the prisoner were, that the House of Commons was corrupt, and that this corruption was confirmed by long duration. That the remedy for this corruption was the Duke of Richmond's corrective. This was the only remedy that could purge and restore it to its soundness and integrity. The House of Commons, he was led to think, would never receive with satisfaction, a petition that went to this object. The majority of the people, he thought, were of his opinion, and that therefore a Convention should be called, to collect the sense of the people. And this was the only remedy which would be effectual and permanent—Universal Suffrage and annual elections. The counsel here laid down the principles of his Grace, which he compared with those of the prisoner, and said they were same.—The Duke had said, that it was from the great body of the people he expected this reform. The counsel then hoped, that from their good sense and humanity, they would consider the case of the prisoner, whom he considered as the discipline of a nobleman elevated in rank, in genius, and ability, and whose enlightened mind could not lead him into error and into guilt. The prisoner was a man of humble condition, of an illiterate mind, and guided by his own feelings in what he conceived to be right; he hoped, he was assured, that the Jury would be inclined to find some little excuse for any mistakes, for little illegal proceeding through incaution, or through ignorance of forms.

Mr. Gibbs here referred to a protest which had been entered at the close of the American war. It was when the country was exhausted of its strength, and overburthened with taxes, that Lord Shelburne (Marquis Lansdowne) moved, that a Committee should be appointed to enquire into the state of the public finances. This motion was negatived, and a protest solemnity entered on the Journals, signed by the great Lord Camden, the Duke of Portland, &c. and ever true to this old principle the Duke of Richmond. Here the counsel

read the protest, which strongly insisted upon the great weight the voice of the people should carry with it. This opinion having the sanction of the greatest legal and constitutional characters that this country possessed, would now, he hoped, be received as just and lawful. You cannot then, Gentlemen of the Jury, attach guilt to this man for calling a Convention to collect the sense of the people; for no other design can be proved. The Counsel then proceeded, with great legal accuracy, into every situation to which the prisoner had been brought, asserting, that in no one stage of the proceedings, any instance of criminality arose by design, or by overt-act, that could lead the Jury to give a verdict against his innocence. The question now to be determined was, whether the prisoner did intend that in his mind, which was imputed to him; and if, from a fair interpretation of the statute of Edward III. it could not be proved, he therefore was not criminal. He was seldom without a spy at his elbow; and though this was his hard condition, yet no one expression of disloyalty, or disrespect, had escaped, as proved, from his lips. He was a man of peaceable and regular conduct: full evidence of this had given by all parties; and on those considerations the Jury could not be led for a moment to suppose that his views ever were, or could be, to attack the Government through the convention.

The Lord President here called on the Prisoner for his defence.

The *Prisoner* rising, informed the Court, that he had nothing to offer in addition to what had been said for him, and was satisfied with what his counsel had done.

The Court here adjourned. On their return, *The Solicitor General* rose, and addressing himself to the Jury, pointed out the great advantages that resulted in every judicial proceeding by engaging the attention and decision of just and dispassionate men. He was assured they would not suffer their minds to be perverted or drawn aside from the justice of the case which was before them, but that they would give their verdict in truth; and that it would be founded upon the truth of those charges, which, notwithstanding the very able and eloquent defence, which the prisoner's Counsel had made, still stood on the solid basis of fact.

The *Solicitor General* then accurately reviewed the evidence which had been brought in defence of the prisoner, and, dwelling on the wavering inconsistency of the conduct and behaviour of those who had sworn in behalf of the prisoner, insisted that little dependence could be reposed in their evidence. The *Attorney General* did not mean, he said, to charge the body of the people at large in those Societies, with the guilt of the prisoner—he meant to charge it on the

few, who led, and blindly led on those whose easy credulity had made them the dupes of crafty and designing men. The few had hid themselves and their designs in the darkness of a Secret Committee, who managed within themselves the whole plan of treason and sedition, and invested themselves with a power of chusing successors at any time that they were dissolved or dispersed. Within this dark cabinet of foul treachery, every plan had been concerted that tended to injure or subvert the Government and Laws of the country; and so apprehensive and jealous were they of their proceedings, that they dare not trust them to the light of inspection of the day. The evidence on the Sheffield letter would be attended to by the Jury, whose unbiased mind would lead them to a just and impartial determination, and he would but observe upon the fraud and secrecy which had attended this letter through every investigation which had been made upon it. He would also observe the pretext made to get into arms; first, for self-defence, then when armed, to act agreeable to their plans, both offensively and defensively. The pretext was self-defence. They spread an alarm that the Aristocratic party were up against them; they had learned from their orators, that by the Bill of Rights, they could arm to guard against violence; the rumour was spread that the Church party were their avowed antagonists, and this served their specious pretences. He had no doubt, and the Jury would be convinced, that it was practical for a numerous force to be soon in arms, as 10,000 pikes could be forged in one day; and then a scene, such as Paris has already presented, would be exhibited to the eye, and would shock and degrade humanity. The whole, he said, was a train of subtilty, art, and system. A system which led to the destruction of the Government, and to the consequent danger of the King. The Solicitor General then observed upon the various views of the different person who were examined in behalf of the defence, one witness had declared his expectations of Reform to be such as happened in 1688. The Solicitor General said he absolved the Society from the guilt which was charged upon the prisoner, because the criminality devolved entirely upon those who composed the Committee. The prisoner cannot be then absolved, as it was manifest that he was in the very center of their proceedings as a Member of this Committee; a Committee composed with all the subtilty and power of a Venetian Junto, with power of naming their successors. If its intention was good, why not openly avowed? Speculative opinions in every free State are indulged, and indulged to every degree short of injury to the State which protects them; when injurious, they become punishable; and so sensible were the first Assemblies of France of this opinion, that one of the best decrees that they left to their

to their successors was, the keeping a watchful and jealous eye over those Clubs and Corporations. They form Governments within Governments, and produce, in the end, anarchy and ruin.

The Solicitor General took a full view of the evidence, and the purposes of the Convention: he marked the mystery of the correspondence of the prisoner with the other conspirators; and said that this carried with it a strong degree of the presumption of the guilt of the prisoner. He said that the proceedings in every point of view had borne on the prisoner, and having once proved the criminal intentions of the Convention, the guilt of the prisoner would be apparent. In order to prove this substantially, it was necessary for the Jury to attend to the fair and accurate interpretation of the Statute of Edward III. He then entered into the statute with the ablest legal accuracy, examined its different clauses, and pointed out, with precision, those which comprehended the particular case of the prisoner; in which he went to a very great extent of able reasoning and ingenious argument.

The Solicitor General next went into the principles of Convention founded upon the Rights of Man, and insisted upon its being incompatible with all Government. He afterwards commented largely upon the Address presented to the National Assembly, and was going to an examination of the President's reply, when he was interrupted by the Court.

The Chief Justice observed, the strength of no man could last longer; and told the *Solicitor General*, he must continue to-morrow morning.—The Court then adjourned at half past twelve.

Seventh Day, Tuesday Nov. 4.

At nine o'clock, Mr. *Solicitor General* resumed his argument where he had stopt the night before.—He had brought to the recollection of the Jury the steps that had been taken by these Societies in sending Joel Barlow and John Frost to Paris, with an address to the Legislative Assembly. He had pointed out the strong and unequivocal language they had used on that occasion, which the Counsel for the prisoner had not even attempted to explain away; and he had drawn their attention in the answer of the Assembly, who seemed perfectly to know their character and their views—for the President addressed them by the title of Republicans and Brethren, and hoped that they should soon have to send an address of felicitation to the National Convention of regenerated England. That these things were most important in the consideration of the present case no man could doubt, since it went, among other things, to shew the character, views, and objects of these Societies. They evidently went to prove that their uniform and sole intention was to overturn

our happy Constitution, root and branch, and to establish in its room that anarchy which at least had not made the happiness of regenerated France. He next adverted to a letter to the Corresponding Society from a Club at Stockport, calling themselves the Friends of Universal Peace and the "Rights of Man"—for these Societies indulging in the most romantic views, and warmed by the wildest enthusiasm, formed to themselves the imagination of universal peace. If they would attend to what they meant by universal peace they would find it to be a peace obtained by a general representative system, which would fraternize the whole world, and make the interests of the governors and governed so inseparable that no grievances could exist but would be immediately redressed. The circumstance of this and other letters not being commented on by the learned and ingenious gentlemen who conducted the defence, must be a decisive proof, amounting to conviction, that they were conscious no defence could be offered. They should recollect that they were gentlemen of great talents and great knowledge; that the last gentleman who addressed them, though he had not the ornamental part of oratory in such high perfection as some others might, yet possessed talents, and knowledge, in a very considerable degree, so considerable, as to entitle him to the character of one of the most eminent advocates. It was not then for want of talent, for want of attention, or of industry that no remarks had been offered them on this subject, but because the learned gentlemen had no ground on which they could stand.

He next desired they would pay attention to the letter from Norwich, which letter had been made the subject of debate in the Corresponding Society: this letter contained expressions which merited special notice, as containing a great deal connected with the cause they had to determine. It enquires whether the object of the Societies be a Reform upon the plan of the Duke of Richmond only, or whether their design was to rip up Monarchy by the roots, and establish Democracy in its place. They say the letters from Sheffield seem to be obscure, at first they seem to intend abiding by the Duke's Plan, and afterwards are contented with a moderate Reform, in concert with the Friends of the People.

The People at Manchester, by addressing Paine, seem to wish for a Democracy; here he observed, that they had been found fault with for attributing this intention to the prisoner, from his Address to Paine, when one of their own Societies had put the same interpretation on a similar address. This letter was read to the Society, and instead of answering so monstrous a proposal as that of ripping up Monarchy by the

roets with indignation, they had debated on the Letter with a sort of temper highly inconsistent with their professions of regard to the Constitution.

The Jury ought to notice the answer, which does not mention with any degree of resentment such indecent and traitorous expressions, but says upon that head, that it is the advantage of the Society that they should not dispute amongst themselves upon Monarchy, Democracy, or Religion. The prisoner, therefore, when honestly conversed on the expediency of their being contented with the Duke of Richmond's plan, only followed the advice he had given to others of not disputing upon the monarchy.—

The Society approved of the French Convention, this he contended was good evidence of their intention to act in the same manner in England as the Convention had acted in France, and a clear proof of their determination to overturn the constitution of their country. He said their resolution was to assemble a Convention in this country which was to be a National Convention, in order that they might have a more direct communication with the French, and might be fraternized with them. This Convention was to assume all the powers of government. He begged they would attend to the conduct of the Society; they had conspired to raise a very strong party, in order more effectually to obtain the detestable they purpose they had in view. So strong was the similarity between these people and the French, that he conceived the Jury could have no doubt in their minds of their intentions being the same; the reason of their not succeeding in this country, as well as in France, was, the different circumstances of the two countries—all government must depend on the public opinion.

In France the government had long lost the favourable opinion of the public; it was far otherwise in this country, whose government was safely lodged in the hearts of the people, whose boast and whose comfort it had been for centuries. They would not hesitate to suppose that men who attempted to destroy this opinion intended to overthrow the Constitution, and involve the country in ruin.—After many observations on the various papers which were in evidence before the Jury, he came to the complaints that had been made at various times on the abuses of government.—No doubt, he said, there were abuses in the government of this; gross and abominable abuses, which every good man would wish to remedy, for whatever situation a person might hold; there was still a higher obligation upon him; which was to do all he legally could do to remove abuses. In a religious view, what should a man give in exchange for his Soul? in a political view, what should a man give in exchange for his Liberty? riches digni-

ties, titles, honours, were nothing in comparison with this object. But all this must be done without any treasonable or seditious practices, and he maintained that the members of these Societies had views very different from remedying these partial defects; he then proceeded to state that it was evident from the different papers in evidence, that the French, and all those who espoused their cause in politics, acted upon a spirit of enthusiasm, as the Papists formerly did on points of religion; they acted on the idea that they alone were right, and that it was their duty to oppose all those who differed from them in opinion, and they were continually employed in making converts; this precisely was the case with the French in their present politics; they proceeded on the same principle of intolerance in politics as the Papists did in religion, and these Societies were parties with the French. They had not been content with publishing their sentiments, but they acted on them, for they had formed resolutions, and acted on them—they had formed resolutions, the direct tendency of which was to make this country a Republic, and that was their object; and they followed this up with a resolution to accomplish it. He then read many of the resolutions of the Society, from time to time, and proceeded to give an account of the Constitution of France settled in 1789, which was certainly, at that time, more popular than any other Constitution in the world; it was a Constitution, however, in which the King had little, except that of a very large and enormous revenue, and some ornaments, that soon proved to be of but little use to him, and that Constitution fell because the King had not power enough under it. Having made many observations on this subject, he proceeded to observe on what was called prejudices in favour of government, and he maintained that the mass of mankind must always judge of government by prejudice, for as they must be employed almost the whole of their lives in procuring the necessaries of life, they had neither time nor abilities to form opinions for themselves; they acted wisely in doing this; for in this they followed the wisdom and the experience of the most enlightened of mankind; and this would always be the case in every well-regulated state.—He then made many comments on the various pamphlets that had been written by different authors, and circulated by these Societies; all of them, he said, in substance tended to inculcate the doctrine, that we had a bad form of government, particularly they seemed to level against two branches of the legislature; and they all seemed to insinuate, that a full representation of the people in the House of Commons would answer all proper purposes: this, he maintained, was a proof, amongst many other things, that their object was to form in this Country a Republican system of government.—He proceeded next to give a history

of the Jacobins of France; and maintained, that the conduct of those Societies was exactly similar to that of the Jacobins in France. [Here he read several of the addresses, letters, &c, of the Societies, in proof of his assertion.] He said, there could not be a doubt, but it was the intention of these persons to bring about a Republican form of government in this country: they had acted often on that idea, with a view of bringing it about, and that most clearly was High Treason.

He then proceeded to take notice of the proceeding of the London corresponding Society of the 20th of January, 1794, J. Martin in the Chair, and maintained that they were all of the same nature as those he had already commented upon, and there could be no doubt whatever of the tendency of the proceedings from the beginning to the end; the proceedings he again read. The next point to be taken notice of was the Convention at Edinburgh, a Convention, the proceedings of which were a mine of sedition, treason and rebellion. To illustrate this, he observed that if any man had proclaimed the Pretender at Edinburgh at the time of the meeting of that Convention, that would clearly be an act of High Treason of itself. The declaration of a Republican form of Government being to be established, was a proclamation of rebellion, for that was their meaning, for they said it would be brought about. This proved that their minds were bent on Treason, and he believed there would not be two opinions on that circumstance among those who attended to their proceedings. He then gave an account of the toast that had been given in a company of some of these Societies, and he observed that although the subject might be treated with levity, yet it should be recollected that such circumstances had always been deemed fit matter of evidence on State trials, and that for best reasons, for men in convivial hours, in company with their friends and connections, were generally sincere, and it was in such situations that we were to find out what was passing in their minds, and that became material in the cause; for the intention of the party was the great thing to be decided upon. He would not repeat all these toasts, as they had been read in evidence, he should repeat only one of them.—“*All that is good in every Constitution, and may we never be superstitious enough to reverence in any that which is good for nothing.*”

This, he maintained, was a very unworthy sentiment, for it tended to insinuate that we could not have any reverence for our own Constitution without superstition; this also proved what was passing in the minds of the company who had drank it—a contempt for the Constitution and such persons must be deemed to have wicked intentions against the government of the country. It was apparent also from the letters of the Prisoner that he had expressed his wishes for establishing a

Republican form of Government; and he had expressed hopes of seeing a completion of his wishes. By establishing a Republican form of Government, he must have meant to have hostile wishes with regard to the King—this was also a treasonable intention. The parties in this conspiracy entered into Resolutions together, and these Resolutions being examined, would be found to amount to a full proof that the intentions of the party were treasonable beyond all doubt. Another circumstance was to be taken notice of upon this trial. Temporary convenience made it necessary that a certain number of Hessian troops should be landed here; these Societies thought proper to enter into Resolutions upon that subject, condemning it as an unconstitutional measure; they declaimed against it, and clamoured; endeavoured to create an alarm. What was this intended to produce? Discontent in the minds of the People. For what purpose? To prepare the minds of the people to revolt. Having proceeded in this manner, until they thought the minds of the People were to a certain degree irritated, they then agreed to hold another Convention similar to that which met at Edinburgh. The place of its meeting was to be a secret. What was to be inferred from this? In his opinion is amounted to a demonstration that their intention was not honest: the whole Society who bore a part in this transaction, must have a hostile intention to the Government of this country. The letter of the Prisoner of the 4th of May, 1794, in evidence before the Jury was a proof of what he thought upon the subject; for it expressed explicitly what ideas he had formed, in which he had said he looked forward to the glorious reign of Liberty and Equality. He then proceeded to take notice of the proceedings at Sheffield, which, he said, clearly demonstrated the intentions of the parties to be treasonable. Mr. Yorke himself seemed to disapprove of the convention at Edinburgh, and declined to attend it, not because he disapproved of the principle on which it was formed, but he thought they had not prepared the minds of the public to regard them in the character of a Convention of the People, and for want of that preliminary caution they failed to produce the effect for which their institution was intended. He then proceeded to take notice of Mr. Yorke's speech, at the Castle-hill at Sheffield, and to comment on its inflammatory tendency, and maintained that this was another incident in furtherance of the plot which had been formed for creating in the minds of the people discontent and disaffection towards Government. He took notice also of the letter of Mr. Skirving, of the 5th of July, 1793, which explained clearly the meaning of the parties to be hostile to Government; this letter proved he said, there was a civil discord in the minds of the parties, a long time before the letter was written. With regard to the evidence of the knife that had

made a part of this prosecution, he was ready to allow that was rather a trifling circumstance, and therefore the Jury, if they pleased, would put it out of their consideration; but the whole of the evidence taken together, he was confident, was conclusive upon the case now before the Jury—Sir John Mitford then said he felt himself so much exhausted (having spoke six hours, in which he went over all the evidence in the cause) that he was unable to say more, and was compelled to leave untouched many topics which he intended to submit to the consideration of the Jury. He could only say, that to the utmost of his power he had done his duty; and he trusted the Jury would do theirs. It was a hard task to press against a man in a case the event of which might be the determination of his life. They were to judge of him according to evidence. If on the fullest investigation of the cause, the Jury could find themselves justified in acquitting the prisoner, he knew they would do it with joy. If they found themselves bound to give a contrary verdict, bitter as the case might be, they had a solemn duty to perform, and they must perform that duty. He had had a duty difficult to his feelings to perform; having gone through it as well as he could, he would not trouble them any longer.

The Court and Jury then withdrew for an hour for refreshment.

Chief Justice Baron Eyre proceeded to sum up the evidence. Gentlemen of the Jury, this Prisoner stands indicted for High Treason, in compassing and imagining the King's death. The indictment contains nine counts or overt acts. Of these are, first—conspiring to levy war against the King—secondly, preparing arms for that purpose. Three others are, first, conspiring to subvert the Government—secondly, sending letters, and preparing arms for that object. The four other overt-acts relative to the assembling a Convention, the first of which is—concerting to call a Convention—the second, publishing books, letters, and pamphlets, in order to induce his Majesty's subjects to send Deputies to the same Convention—the third, meeting, consulting, and deliberating how, when and where this Convention was to be held—the fourth, the appointing Jeremiah Joyce, John Augustus Bonney, &c. to meet and co-operate towards the calling and assembling such Convention. You will attend only to the evidence necessary for the establishing one of these acts; the general effect of the whole will come afterwards to be considered. The Chief Justice then went on to sum up the evidence in the order in which it had been brought forward; and began with adverting to the witness from Sheffield, Camage and Broomhead. In the course of his statement, he ordered the Clerk to read to the Jury the Address to the people, and the Petition to his Majesty, which had been voted on the Castle-

hill. As to the general libelous tendency of the address, he remarked that it was not very much to the purpose. There was one expression in the Petition which deserved to be remarked; mention is there made of "the impending storm," but what was the application to be given to this phrase, taken along with the date, was matter of fit consideration for the Jury. The whole of this printed paper had been very much relied on by both sides, and had received very different constructions from the Counsel for the prosecution, and the Counsel for the prisoner. Its importance arose not so much from the other extravagances which it contained, as from one Resolution, "That they would petition Parliament no more."

It was evident, therefore, that they meant to take some other course in order to obtain their object. What that other course was, it remained for the Jury, taking it in the chain of evidence along with the time at which the Societies had in agitation their plan of a Convention, to determine. The next witness to whom he adverted was Henry Alexander, whose testimony, from the manner in which it was given, was not entitled to much credit, and upon which indeed nothing material depended. All that could be gathered from him was, that he had been present at a meeting where Yorke, who was then on the eve of going abroad, talked extravagantly.— Thomas Whitehall confirmed nothing. The testimony of the next witness, George Widdison, suggested one remark. This was the first witness who had talked of a Reform of Parliament, and stated his sentiments upon the subject, which he professed to have borrowed from those of the Duke of Richmond. And this ought to afford an important lesson to all men of rank and property, how they committed their sentiments to the public upon such subjects, since they there gave to others the power of dispersing them to an unlimited extent, and hazarded the mischief that might be produced by their falling into the hands of those who were either not qualified to understand them, or not disposed to draw from them proper conclusions.

Henry Hill, who was next examined, among other things stated, that there were ten thousand persons present at the meeting on the Castle Hill, at Sheffield, who expressed their approbation of the proceedings which many of them could not hear, and this no doubt was the way in which very frequently the approbation of so great a multitude was obtained to proceedings with which they were entirely unacquainted, or which, if they knew, they were not qualified to understand. The witness knew not that a motion for a Petition to Parliament had previously been agreed to be rejected by the Junta, which gives one an excellent idea of what sort of a thing a debate is conducted in such an assembly. John Edwards

proved that he had received from Baxter that infamous paper "*The Guillotine*," which he ordered the Clerk to read. This, he said, was a most infamous and detestable paper. The allusion contained in it was too obvious to require to be pointed out. But whether it ought at all to be interwoven with the Indictment, or allowed to have any weight in the charges against the Prisoner, was for the Jury to consider. The witness did not think that Hardy had ever seen the paper, or that if he had seen it, he would have approved of its contents. One material circumstance which appeared from the evidence of this witness was, that Hardy had received the letter from Sheffield relative to the pikes, and had so far acted upon it as to have communicated to the witness the direction where he might furnish himself. The next witness, Samuel Williams, spoke only to the subject of guns. He had given Hardy an order for boots and shoes, who in return had found customers for three or four of his guns; thus far the transaction was merely in the way of trade and mutual accommodation, and could reasonably fix no imputation upon Hardy.—But it appeared afterwards that Hardy had recommended him to Franklo's Association. The private and clandestine way in which this Association met to exercise, and the manner in which they shifted about from one place to another, warranted at least a suspicion, that they were conscious that they were engaged in no good purpose. From this recommendation, it was evident that the nature of this Association was not unknown to Hardy; but what were their designs; how far the Prisoner might be implicated in them, were questions fit for the consideration of the Jury. Edward Gosling had stated an expression to have taken place in the Society, which was certainly a very strong one, "that they would arm to support their Convention as the French had done." If the Convention, which it had been so much contended was to have met in a legal and peaceable manner, were to have been supported in their proceedings by an armed force, it gave indeed a new complexion to the business.—At the same time it was to be recollected what degree of credit was due to a witness of this sort, who was professedly employed as a spy, and whose character was by no means the most unexceptionable; were there not objections to his credit, his testimony would be very important indeed, as it would serve to mark a determined purpose against the King and his family. He had ascribed to Baxter, language so very imprudent, as could scarcely have been supposed to be used. His evidence was to be received with great caution. John Groves was a witness, whose veracity was still more directly impeached. The Chief Justice ordered a letter from Stockport to be read, dated 5th January, 1794, the whole of which he affirmed to be inflammatory, but particularly the last paragraph. This was followed by read-

ing a song full of seditious matter, which had been found among Hardy's papers. The Chief Justice observed that it had very fairly been taken notice of by the Counsel for the Prisoner, that he, being a Secretary of a Society, was exposed to receive all sorts of papers, and could not be responsible for their contents. The circumstance of improper papers being found in his possession, might only afford an indication of imprudence, and it remained for the Jury to determine how far that, taken in connection with other circumstances, ought to attach a charge of criminality. The Chief Justice then proceeded to remark on the evidence of Lynam, and the evidence brought from Scotland, relative to the conspiracy of Watt and Downie, from any share in which he seemed to consider the Prisoner as completely exculpated. He then adverted to the papers found in the possession of Martin and Thelwall, which, whether they were allowed to affect the Prisoner or not, proved at least the existence of very dangerous designs, and that the minds of some of those with whom he was connected, were infected with a degree of violence, the probable effects of which he shuddered to contemplate, and with a wickedness which it was almost impossible to believe. He then went over the witnesses that had been brought to prove the Prisoner's private character, and the moderation of the political sentiments of the Prisoner, shortly remarking on the evidence that had been given by each.

The Court then adjourned at half after eleven o'clock.

Wednesday, Nov. 6.—Eighth Day.

At nine o'clock this morning the Court sat, and the Lord President of the commission proceeded as follows, in continuation of his charge to the Jury.

Yesterday, Gentlemen, I went through the whole parole evidence, except a report of the House of Lords, which was read to you as evidence in favour of the prisoner; some arguments might be made use of from this on the part of the prisoner, or shew his honest and upright intentions.

I am now to say to you, gentlemen, that this cause, which is a very important and momentous one, is at length brought near its conclusion: it must be a satisfaction to every honest man, that it has been conducted with so much temper on all

sides, and that there is a reasonable prospect your minds may have been sufficiently informed to give a verdict satisfactory to your own mind, and of course satisfactory to the whole country.

It is extremely pleasing to me, as great a satisfaction indeed as a man can feel, who has so painful a duty to discharge; that in this cause there can be no possible hazard of our being entangled in any difficulties of law. Your verdict will not proceed on any narrow or technical grounds. The overt-act is in substance, that the prisoner had conspired to depose the King; this has been always considered as an overt-act of compassing and imagining the King's death, and as a known presumption of treason, by all writers on the subject.

There's no question whether the compassing and imagining the King's death were the primary intention of the person concerned, conceived by him previous to any step for deposing the Sovereign. The deposing is a presumption of law, and that only because it is a strong presumption of fact, so strong indeed, that no reasonable man could entertain a single doubt on that head. I will waste no time in the discussion of such a question; the answer is too obvious to need it.

A great deal has been said on the subject by the Counsel for the prisoner; but they were not able to controvert the position which I have just told you is undoubtedly law. I must agree with those learned gentlemen, that no prisoner ought to be convicted otherwise than *proveably*; the evidence must be plain and convincing. I avoid using the word direct, lest it should entangle you in a difficulty, where sufficient proof arises from a chain of convincing circumstances.—The short state of the question is this: was the prisoner at the bar proved to have conspired to dethrone the King, and for that purpose did he, with others, contrive the establishment of a National Convention? I begin with stating, that I think it ought to be conceded to the prisoner, that he did set out originally on the plan of the Duke of Richmond for a parliamentary reform, upon the grounds of Universal Suffrage and Annual Parliaments. I think it will be incumbent on those who conduct the prosecution to prove that the prisoner, and those who were concerned with him, irritated by their own feelings of grievances, or by the example of France, had departed from it, and entered into views of a different nature; that they had extended their designs to other objects, not very far removed from the original one; and this is the reason that the publication of such as the noble Duke's becomes dangerous; for the object I mean is the substitution of a pure democracy by a representation of the people only, which is there expressed by the word full and free representation. In the mass of evidence which has been laid before you, there are parts to be found, not very numerous, which are to be

submitted to your consideration, as grounds from whence the prosecutors have drawn their conclusion, and for which they are to support the assertion, that the prisoner is guilty of the crime of compassing the King's death.

The parts I particularly refer you to are those passages which mark the conduct of these persons in the course of the year 1792, in their Address to the French Convention; afterwards the Address itself should be attended to; then should be considered their subsequent conduct down to the time when the British Convention was dispersed at the end of the year 1793, and the project of a Convention, in the beginning of 1794.

The Delegates are instructed, on the part of this Society, to assist in bringing forward and supporting any constitutional measures for procuring a real Representation of the Commons of Great Britain in Parliament. That in specifying the redress to be demanded of existing abuses, the delegates ought never to lose sight of the two essential principles, General Suffrage and Annual Representation, together with the unalienable right in the people to Reform; and that a reasonable and known compensation ought to be made to the Representatives of the Nation, by a national contribution.

That the Delegates do punctually correspond with the Society, for the purpose of communicating information, and of receiving such further instructions as the exigency may require.

Every thing done by the British Convention is completely brought home to the Society, by the unqualified approbation of their conduct.

His Lordship then said, I should state to you, that it is evident that those popular Societies had, in the beginning of the year 1793, so conducted themselves as to excite a question concerning their conduct before their Address to the Convention. You must recollect that a Society, calling itself the Friends of the People, consisting of men of rank or weight in the State, had refused to correspond with the Constitutional Society, and had exhorted the Sheffield Society in vain to make an explicit declaration of their attachment to the Government, as established by law.

One of these Societies had gone so far into Republican opinions, that the Society at Stockport put the question directly to know whether the House of Lords would satisfy their desires, and whether the Bishops, a part of that House, would grant that liberty of conscience they wished.

The Society at Norwich put the question more openly, and in a manner which could not be mis-understood; their question was, Whether the Societies intended to rip up Monarchy by the roots, and put Democracy in its place? The Society

suspected that these letters were intended as a snare, and this put them upon their guard; they answered the letters. One might reasonably have expected that men, who adopted the Duke of Richmond's plan with sincerity of heart, would when so called on, have most distinctly avowed their plan, in terms admitting of no qualification or doubt.—They would have avowed their adherence to the King and Queen, and their attachment to the Government of King, Lords, and Commons, as by law established; they would have left no doubt, or appearance of doubt, concerning their opinions on these subjects. The answers to these requisitions shall be read to you, not that I think that in a case of this nature much stress should be laid on particular expressions. God forbid the life of any man should rest on words hastily spoken.

You may often, in my opinion, even give a too strict interpretation of actions; but sometimes words may be too explicit, and actions too plain for any man to misunderstand. See, Gentlemen, if they avow any attachment to the Government of the Country, as established by law, in these papers. Many critical observations have been made on the expressions contained in these documents: it is for you to judge what is the proper force of them? such as stike your minds clearly and distinctly are probably well founded; if they require much difficult investigation and minute inquiry to convince you of their propriety, I think they do not merit your attention; you will only entangle your minds, and not be able to discover the general application to the case. One observation I feel myself obliged to make on their answer to the Society at Stockport. In this they inform that Society, that they have resolved on an Address to the French Convention; and then follows this extraordinary passage—"Without entering into the effects of such a measure, which you will discover, we invite you to join us.

Now, Gentlemen, what were these effects, and why did they not avow the whole of their object in terms admitting of no possible equivocation or doubt? Afterwards they did address the National Convention, and it is found that the London Corresponding Society took an active part in the measure. They had informed the Constitutional Society of their design, which declared their approbation of such intention, but refused to join in the same address which had been sent them, and chose to address separately. In the addresses, he said, to the National Convention, one might observe the language of determined Republicans, who were going out of their way to express their zeal.

Mr. Frost and Mr. Joel Barlow had presented the Address to the Convention, and they hoped that the time was not very fardistant when felicitations might be sent across the Channel

to a National Convention in England. He would not make any observations on the persons who had used this language, except as far as it was connected with the prisoner at the bar. The approbation given to those gentlemen, by their principals, bound them; though it would not be so, if that positive approbation had not been given. Had they been dutiful and loyal subjects who had used these expressions, they would have been entitled to a fair and candid exposition: but if, on the contrary, their principles were different, their conduct must be referred to them.—His Lordship took notice of the approbation given to the writings of Paine and Barlow, which the Societies had dispersed with great industry. What could have been their motive in this? If they intended nothing but speculative discussion, they might have said that they did not intend any thing against Government, or the Privileged Orders in this country. Much mischief had been done in alienating the minds of his Majesty's subjects. There certainly was nothing in the publications that did away any part of the charge, whatever weight they might be supposed to have on the other side. The abundance of licentious publications sent into the world by those Societies, was another feature in the case. They were likely to irritate the people's minds. A good subject should be careful and cautious, that, in pursuing a redress of grievances, he did nothing to overturn the Constitution of the Country. Hardy's letter to Skirving ought to be particularly attended to. It was in answer to one written by Skirving, to the following effect:

“ If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set without affecting the vitals of the system adverse to Reform; this might be easily accomplished; but to cut up wide and deep-rooted prejudices, to give effectual energy to the dictates of truth in favour of public virtue and national prosperity, in opposition to self and all its interested habits, and to withstand and overawe the final efforts of the powers of darkness, is the work of the whole and not of a part—a work to which mankind, till this awful period, were never adequate, because, never, till now, disposed to fraternize.”

“ Let us begin in earnest to make up our minds relative to the extent of Reform which we ought to seek, be prepared to justify it, and to controvert objections. Let us model the whole in the public mind. Let us provide every stake and stay of the tabernacle which we would erect; so that when the tabernacle of oppression in the palaces of ambition are broken down, under the madness and folly of their supporters, we may then, without anarchy and too dangerous delay, erect at once our tabernacle of righteousness.”

This seemed to point out pretty plainly Mr. Skirving's intentions; Hardy was not surprized with the correspondence and therefore it would have its due weight in the minds of the jury. His Lordship thought there were great doubts of the sincerity of the application of the London Corresponding Society to Parliament for a Reform; they seemed rather to wish to agitate the public mind by the discussion of the subject. When, in the British Convention, there had been a motion for petitioning Parliament, it was set aside by the order of the day. Here then they laid aside the original purpose of the meeting; they also assumed an extraordinary solemnity; they began every day's business with a form of prayer. They divided themselves into Seditious Committees, &c. after the model of the National Convention of France, and dated their proceedings from Convention Hall, sometimes first year of the Convention, one and indivisible.

One of the immediate consequences of this dispersion was an intention openly avowed the Societies of assembling another British Convention in England. At this time, if their views had been good, if they felt as dutiful subjects would feel, apprehensive of exciting the people against the government and of occasioning mischief, they would have made an express avowal, that they wanted nothing more than Parliamentary Reform, and an express disavowal of the seditious and illegal purposes which had been imputed to them. Every thing inflammatory would have been most carefully avoided. But the jury would see what was their conduct on this occasion, from the following papers. Then the resolutions of the Globe Tavern were read; and passages from the Address to the People of Great Britain See page: 30,, 31, 32, 33.

Of the very dangerous tendency of this paper, there could be, his Lordship observed, no manner of doubt. It would make an impression upon them, but he hoped not an unreasonable one. They were called upon, with respect to this paper, to judge between the King and the Prisoner at the bar. They would judge whether their real object was a fair, free, and full Representation of the People, or the destruction and subversion of the Government—whether they intended this paper as a paper of advice, or as their public manifesto and appeal to the People against the Government.

The Lord President observed, they had already been read three or four times. He then proceeded to the time of calling the Chalk Farm meeting. It was never he said, too late to retract one's errors. This Society had it now in their power to do so, if they had the inclination. Their Resolutions would shew how they had acted. This last meeting, his Lordship observed, was intended to have been held in Great Room Store-street, Tottenham-court-road. The Resolutions were very

violent. If the Jury attended, they would find that the Society now thought the crisis had arrived when the compact between the people and the Government was broken. Why this meeting had been convened at all it was difficult to conceive; had they thought of retracting any violent or improper Resolutions they had entered into, such meeting would have been a proper thing; but if it appeared that these new Resolutions were a second manifesto, intended to impress on the public mind that a force was ready to protect a Convention, and that Government was no longer entitled to their obedience, then the meeting and its resolutions would wear a very different complexion. If these latter Resolutions were intended to follow up those which had been entered into at the Globe Tavern, it was hardly possible, from the terms of them, that any degree of enthusiasm could prevent the authors of them from seeing their tendency. It was evident that these Gentlemen considered the sword of the law suspended over them by a single thread. They directed 200,000 copies of their Resolutions to be circulated, and consequently they appeared desirous that number of persons, or as many more as should happen to read their papers, should assist in their views.—Their appealing to the supreme Law; the safety of the people, admitted, he thought, but of one interpretation; for, considering this sentence in its relation to the context, the people were informed that they had been betrayed, and that they must now look out for themselves. The 8th and 10th Resolutions glanced at the house of Lords and the Crown. On the part of the prisoner, it had been said, that these persons were dutiful and loyal subjects of his Majesty, and that they had provided arms for no other than constitutional purposes. This was the defence, and the jury would consider whether it was true, not forgetting that it was made by the persons who addressed the National Convention of France, and who had agreed to all the other Resolutions of which they had heard.

His Lordship made a few remarks on the Sheffield Meeting, on the Castle Hill, conducted by Mr. Yorke. He said, that though a multitude of names appeared to all those Resolutions, there is every reason to believe that but a very few were engaged in the depth of the criminal project. This assemblage was said to have consisted of 6000 people, and, perhaps, no more than 200 were acquainted with the promulgation of the resolution, that Parliament should be petitioned no more. It would not be perfectly fair to put a construction on this resolution unfavorable to the Society, if they had not given their reason for it, viz. that they were not represented in Parliament. This objection would always apply to the House of Commons while it remained in its present state. The weight of this part of the evidence arose from a comparison with the other parts of the conduct of these Societies; by which it appeared that it was their design to

establish a Government by Popular Representation. It was said by one of the witnesses, that in a conversation between Margarot and others, while the prisoner was present, that Margarot asked, Do you wish to introduce French principles here? The answer was in the affirmative.

This might, perhaps, go to the extent of the whole proposition asserted by the prosecutors. The preparations for arming to defend the Convention did not look well. Every thing ought to have been conducted by that Convention in a peaceable manner, and therefore there would be no need of arms. With respect to the expressions of Baxter, they appeared to be connected with the whole transactions of these Societies. The Jury would, from all these circumstances, consider whether the Prisoner had any part or share in a conspiracy for subverting the Constitution, that is, of deposing the King, which amounted to an overt-act of compassing his death. In the performance of this duty, they were not to consider the impression which the evidence might be supposed to have made upon his mind. They would allow to the Prisoner every thing that was favourable. He did not appear to have been the leader of the Societies, but he had been a very active member in both the Societies. If the general impression of the case was right, there was no doubt with regard to the connection which Mr Hardy had with them. On the part of the Prisoner, it had been stated, that the providing of the arms had not been in any manner connected with the Convention intended to be assembled. The two circumstances were in some measure, but not wholly connected. It was also stated, that the Prisoner was, a plain, good, honest, man, and a Friend to the Constitution of his Country.

The *Lord President*, after having commented on the Duke of Richmond's letter, observed, that the peaceable conduct of the persons belonging to these Societies was not a sufficient evidence of the innocence of their intentions, when it appeared that they had sent about publications of a contrary tendency. It had certainly been proved, by a crowd of witnesses, that the Prisoner was a moral, religious, and good man, and that his private character was excellent and amiable; but it was likewise evident that he was an enthusiast. Such was the case with the enthusiasts of the first century, who were mentioned on the preceding day by the Solicitor General. Those Monarchy men, as they were called, might have been moral and religious men, but they were likewise enthusiasts, and their religion might have led them to acts of High Treason. The enthusiasm of the Prisoner might have got the better of his judgment, and have had the same tendency.

Upon all these points and statements his Lordship desired the Jury to exercise their judgments; and requested them not to pay any more attention to the observations that fell from him, than

as far as they related to the particular points which went to constitute the crime charged in the Indictment. One great object was answered by the present prosecution, which was, that it satisfied the Country as to the fairness and impartiality with which it was conducted.

The Jury asked his Lordship's Permission to have a copy of the indictment.

The LORD PRESIDENT consented to give it, but at the same time observed, that it was not strictly regular.

The Jury withdrew at five and thirty minutes after twelve; and between three and four o'clock returned with a verdict,

NOT GUILTY.

The LORD PRESIDENT then thanked the Jury for their diligent attendance on so long and arduous a trial; and gave directions that the prisoner be immediately discharged.

THE END.

* * * *The Trial of Mr. JOHN HORNE TOOKE, and the Rest of the Prisoners, will be printed in the same Manner as this, and published in daily Numbers, Price only Three Pence.*

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JOHN HORNE TOOKE ESQ.^R.

THE

TRIAL AT LARGE

OF

John Horne Tooke, Esq.

FOR

HIGH TREASON;

Before the SPECIAL COMMISSION;

AT THE

Sessions-House in the OLD-BAILEY :

BEGAN

On *Monday, November 17*, and continued until
Saturday 22, 1794.

With the Whole Proceedings of the ATTORNEY and
SOLICITOR GENERAL on the Part of the Crown ;

AND

Mr. ERSKINE and Mr. GIBBS for the Prisoner.

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ADDRESS TO THE PUBLIC.

ENCOURAGED by the very extensive sale of the Trial of Mr. THOMAS HARDY, the Publisher has made the necessary Arrangements for gratifying the Public Curiosity, by an early, impartial, full, and accurate account of the Proceedings in the present Trial of Mr. JOHN HORNE TOOKE, for *High Treason!*—A Trial which, from the Circumstances that must necessarily arise in the Progress, will assuredly prove as important to the Public, and as interesting to Individuals, as any one on the records of a Criminal Court, of this, or any other Country, ancient or modern.

It is necessary to apprise the Public, that this Trial is taken *verbatim* in Short Hand, from the precise expressions of the Court, the Counsel on both sides, the Witnesses and the Prisoner, and that it will be followed by those of the several other Persons who stand indicted for the Commission of *High Treason*.

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TRIALS FOR TREASON!

THE TRIAL OF JOHN HORNE TOOKE, Esq.

FIRST DAY.

Monday, November 17.

THE court of Special Commission, for the trial of the several persons indicted for the crime of High Treason, was formed at Justice-hall in the Old Baily, a few minutes before eight o'clock in the morning of Monday, 17th Nov. 1794, in pursuance of the adjournment on the conclusion of the trial of Thomas Hardy.

All the judges named in the commission, except Mr. justice Buller, having taken their seats, Mr. Horne Tooke was put to the bar, and Mr. Shelton, clerk of the arraigns, having called over the names of the gentlemen (the same pannel as in the case of the King *v.* Hardy), who were summoned on the jury.

When Mr. Shelton was about to call over the jurors a second time, for the purpose of giving the crown and the prisoner an opportunity of challenging,

Mr. Tooke.—My lord, I desire, as it is necessary for the purpose of my defence, that I may quit the situation in which I at present stand, and may be placed near those counsel whom the court has assigned to me as assistants in my defence.

Chief Justice Eyre.—That is an indulgence that I hardly ever knew given to any person in your situation.

Mr. Tooke.—My lord, I am perfectly aware it is unusual, but I beg your lordship to observe, that every thing in the course of these proceedings is likewise unusual. I beg your lordship to consider that the proceedings on the last trial took up, as I am well informed by a short-hand writer, one thousand six hundred pages, close printed octavo; that the trial took up eight days, with the interval of one day, and the matter of that indictment was such, that it is impossible for me to instruct my counsel

standing here, and they cannot know every passage of my life, and some things are imputed to me as passages in my life which are not so, and which will be brought before you. How is it possible for my counsel to know that which is only known to myself? I do not ask this as an indulgence, I beg your lordship's pardon, I claim it as my right by law. I have no desire to say any thing to offend the court at any time, and particularly at this time, when it is so much my interest to conciliate all. If I were a judge, that word *indulgence* should never proceed from my lips. My lord, you have no indulgence to shew; you are bound to be just, and to be just is to do that which is ordered. *What is not ordered I shall not ask,* and your lordship cannot grant; but if you think it is not my right by law to be placed by the side of my counsel, I must encounter the learning and abilities of the Attorney and Solicitor General, by attempting to shew that this is the right of every person standing in my situation. My lord, I am not so foolish as to desire to give your lordship or any person offence, when it is so strongly my interest to please all. I have died twice, and the second time has been a torture. I have a stake as great as any that can be conceived by the mind of men, no less than whether my family shall be beggared, and my name rendered infamous to all posterity. It is very well known that the best gamblers, when the stake is too deep, play the worst; I hope that will not be my case. If I am permitted to sit near my counsel, I may prevent a great waste of time to the jury, to the court, and to yourself. I am firmly persuaded, that it is impossible for the prosecutors to produce any thing against me which will render it necessary for me to be put upon my defence. I shall be very glad if what I now ask is granted. If you keep me nine hours instead of nine days at this bar, such a declaration will be equal to a sentence of death. I come from a very close custody. My lords, that custody has been attended with many degrading and with some uncommon circumstances. At my age, and with my infirmities, this custody has in some measure impaired the health and strength of my body. I come to you half a man, and your lordships will expect a whole defence; and I do not doubt that I shall be able to give that defence, provided you furnish me with proper and necessary means of giving it.

Lord Chief Justice Eyre.—Mr. Horne Tooke, you have been furnished with that which the law considers as the necessary means to enable you to make your defence. You have had counsel assigned to you. They have had access, or had a right to have access to you at all seasonable hours. You have taught the court not to use the word *indulgence*, and you have pointed out to them, their duty that they are to give no indulgence. I am apprehensive it would be considered as extraordinary indulgence, if the court were now to do that which you ask, because it is not done to other prisoners. It was not done to the prisoner

who went immediately before you, who had the same stake you have, and which all the other prisoners have, who are to come to this bar to be tried for the same offence; and therefore the court is not permitted, without doing injustice to others, to grant that which you ask, upon the ground on which you ask it. But you have mentioned another circumstance which I think extremely material; and which will, in my mind, warrant the court in doing that which you think they ought not to do—to indulge the prisoner, especially because the state of his health requires it, and because in the place in which you now stand your health may not be sufficient. The court does not wish to put you under any difficulties; they wish you to make your defence in the best way; and on the score of your health, and as the situation in which you stand is really likely to disable you from making your defence in the manner you might otherwise make it I shall put it to my lords, to consider whether you may not be indulged with that which you have now asked.

Mr. Tooke.—My lord, you will forgive me only for saying, if on the footing of indulgence the court should not think fit to grant what I ask, I hope I shall not be barred from my argument in point of law.

Lord Chief Justice Eyre.—You must state your whole case at once, and not propose it first in one shape, and then in another: In that way you may go on without end. If you desire to argue this as a point of law, to be sure we are ready to hear you.

Mr. Tooke.—My lord, I beg your lordship's pardon. I have not shifted the ground I at first stated. At first I desired to argue this as a point of law, that I am well entitled to what I ask for by law, by the principles, by the letter, by the practice of it. I do not wish to take one ground and then another. I do not want to go into this matter, and to collect the sense of the court—I wish to waste no time. I knew after a decision I should not be permitted to argue it. I am willing to accept it on the score of health. I do not wish to change my ground, and if you grant it, I shall be very happy.

Lord Chief Justice Eyre, (after consulting a little with the rest of the Judges.)—*Mr. H. Tooke,* I have consulted my lords the Judges, and they feel themselves extremely disposed to indulge you on the score of your health. They think that is a distinction which may authorize them to do that in your case, which is not done in other cases in common. They cannot lay down a rule for you, which they could not lay down for any other man living; but as your case is distinguishable from the case of others, that does permit them to give you that indulgence which you now ask for.

Mr. Tooke.—I am very much obliged to your lordship, and am willing to accept it either as an indulgence or upon any other

footing you please to put it. It will be very favourable for me, and necessary for my health.

Lord Chief Justice Eyre.—A chair must be prepared, and the bar entirely cleared, that there may be nobody to interrupt the prisoner where he is to sit.

Mr. Tooke then left the bar, and came into the body of the court, where there was a chair prepared for him near his counsel, *Mr. Erskine* and *Mr. Gibbs*, who sat near the place where the Clerk of the Arraigns usually sits.

Mr. Shelton then called over the pannel a second time, when the counsel on both sides took their challenges.

When *Philip Godfall*, gentleman, and Coach-maker, was called, he was challenged by *Mr. Erskine*, on the ground, that he was supposed to have made a declaration, that, if he were on the jury, he would hang every one of the prisoners.

A witness, of the name of *Berry*, was produced, to prove that declaration. He said, he was clerk at the Oracle Office, but he did not recollect the person of *Mr. Godfall*. This gentleman was pointed out to him in court, and he said again, he did not know him. He had been told of it by a young man of the name of *Harman*, who was supposed to have been present when the declaration was made. He did not know where *Harman* lived.

On cross-examination by *Mr. Attorney General*, he said, he had received a note last night from *Mr. Clarkson*, Attorney for the prisoner, and that he called on him, and told him, he, himself did not know *Mr. Godfall*. He said, he belonged to *Mr. Bell's Oracle Office*.

Mr. Bell was in court, and begged leave to disclaim all knowledge of this business till that moment.

Mr. Godfall said, it was his duty to vindicate his character, and thought the witness ought to be punished for casting an aspersion on his reputation.

When *Thomas Rhodes*, Cow-keeper, Hampstead Road, was called, He begged to be excused; he was apprehensive the confinement would disable him from doing his duty, as he was very much used to be in the air; (and, to be sure, he had all the external marks of good health and strength.)

Lord Chief Justice Eyre—These apprehensions, Sir, are too distant. Every juryman might justly apprehend that a confinement of this kind will have some effect on his health.

Mr. Rhodes said, he must forfeit his fine.

Lord Chief Justice Eyre—You cannot forfeit your fine.

When *Rhodes* was about to be sworn on the Jury, he said it was impossible for him to discharge the duty.

Lord Chief Justice Eyre—You must give us the satisfaction of telling us, upon your oath, that you cannot go through the duty. I am surpris'd, Sir; you should state all this, in the pre-

sence of such an audience, and decline affirming it upon your oath.

He was sworn as to the state of his health.'

Lord Chief Justice Eyre—Is the state of your health such, that you are incapable of going through the fatigue of a trial?

Rhodes. I am so subject to a head ach, that I am confident I should have such a head ach, that I could not go through the fatigue.

Lord Chief Justice Eyre.—I am not quite satisfied with your manner of dealing with us; but however, you are discharged.

Alam Stenmetz, Esq. was called, and stated that he had been upon the last jury, that he had not as yet recovered from the fatigue of that trial, and hoped the court would have the goodness to excuse him.

Lord Chief Justice Eyre.—I am sure you must be excused, for the fatigue of that trial might very well affect the health of any gentleman. I am only sorry you are obliged, from the state of your health, to wish to be excused.

All the gentlemen who were upon the last trial were excused on the same account.

When John Thompson, brewer, at Chiswick, was called, a gentleman said Mr. Thompson wished to excuse himself from being upon the jury, because he had lived long in habits of intimacy and friendship with Mr. Tooke.

Mr. Tooke confirmed this, by observing they had been acquainted these four and thirty years, and supposed that Mr. Thompson declined being on the jury, for fear he might be suspected of partiality.

Lord Chief Justice Eyre.—That is no excuse at all.

When Mr. Shelton had got through the whole roll of jurors, there were only nine gentlemen sworn upon the jury.

The court desired him to call those who were absent on their fines.

Several gentlemen who attended, had wished to be excused on account of bad health, and they were informed by the court, that they should, provided they could make a jury without them. One of those gentlemen was Henry Purrier, Esq. who was afterwards called to be sworn on the jury.

Mr. Erskine said, he knew nothing of that gentleman, and therefore he hoped, that what he was going to say would not be considered as disrespectful to Mr. Purrier. On the part of the prisoner, they had come to the end of their challenges, and different gentlemen had made excuses, which they had submitted to the consideration of the court; and their lordships, with their usual justice and indulgence, had attended to them. It was not possible for his learned friend or himself to know what number of the inquest would appear, or what number that did appear would be qualified, and *non Constant*: had they known those circumstances, but they might not have challenged this gentleman rather than another, which they had challenged.

No man would wish in a case of that sort to throw away a challenge. He wished to appeal to the practice of former times, rather than to any constructions of his own. By the law of England, the crown was entitled to no challenge, without assigning sufficient cause; whereas, the indulgence of the law permitted a prisoner charged with High Treason, peremptorily to challenge thirty-five jurors without assigning any cause at all. The court was put into that predicament, that they must either put that gentleman, and others in the same situation with him, into the jury box, to serve on the trial, or they must call on the Crown to see whether there was any foundation for their challenges. The Crown had challenged seven gentlemen.

Mr. Gibbs, on the same side, said, the nature of their objection was, that the persons on the pannel should have been called in the order in which they stood. Had that been done, the gentlemen on the pannel, who had been excused for the present, might have been the persons whom the prisoner would have challenged rather than those he did challenge.

Mr. Purrier here stated, that he had been afflicted with a complaint for many years, that made him altogether unfit for the discharge of his duty; and if he were put upon the jury, he should interrupt the time of the court as sure as he was alive. He was present at *Hardy's* trial on the Thursday, and if he had been upon it, he must have been carried out of court, with the suspension of all his faculties. After he was sworn, as to his health, he declared the state of it was such as to make it impossible for him to go through the fatigue of this trial.

Mr. Horne Tooke next addressed the court. He expressed great anxiety for the preservation of the Criminal Law of England, and wished that it might be preserved in its utmost purity. When he had walked along, lost in reflection, and had come to himself again, he had sometimes observed there was not before him the train of objects he had been accustomed to, and instantly he recollected he must be out of his road. He had then stopped and gone back, because the accustomed succession of objects did not occur to him. "To apply that observation to these proceedings, let us consider, (said he) where we are. In the last trial the jury returned to the charge day after day in custody, without being shirtd and unshaved, while the Judges left court, and went home, and returned again and again. Now if the Jury are to remain unshaved and unshirtd, so must the Judges; for the court is likewise in custody, and the eyes of every person present are their keepers. On this occasion the Criminal Law of England has been totally destroyed; for my part, I would as readily trust any Jury in England at large as the Judges. He next attended to the increase of the monstrous influence of the Crown, by returning such a pannel of jurors as the present, namely, 228, of whom the prisoner could only challenge 35. What has now be-

come of the Criminal Law of England? If you do not now find the succession of objects to which you have been accustomed—Stop, turn round, for you must be in the wrong. From the glorious structure of the Criminal Law of England, you cannot take out one stone but the whole fabric must come tumbling down about your ears. It has tumbled down. I would rather die on this spot than the Judge and Jury should separate before the end of this trial. The law of the land never intended a trial for High Treason to last for so many days, during which the Attorney General, Solicitor General, &c. were making known to the Jury the nature of a charge upon which my life, my fortune, and my character depend. Let me die in this place, rather than that all the rules and practice of the Criminal Law should be destroyed. I will do every thing in my power to prevent it.

Lord Chief Justice Eyre.—I do not know to what this address tends.

Mr. Tooke.—I say the Crown should assign their causes of challenge. We have gone through our challenges, and we are now entitled to call on the counsel for the Crown, for the causes of their challenges; and that we may have those good men whom they have rejected.

Lord Chief Justice Eyre.—From the whole of our legal history, the course is a clear one. The Crown has no peremptory challenges; but the course is, that the Crown may challenge as the pannel goes on, and is not bound to shew cause of challenge till it is gone through; this is the established course. Circumstances have arisen, by which it has become absolutely necessary to make a pannel vastly more numerous than they were in ancient times; and this may possibly give the crown an improper advantage; but whenever we see that improper advantage attempted to be taken, it will be for the serious consideration of the court, whether they will not put it in a course to prevent such improper advantage being taken. I see no attempt of that sort at present. On the part of the crown they have challenged seven

Mr. Tooke.—That is a majority of the Jury.

Lord Chief Justice Eyre.—When the pannel is gone through, if there is not a sufficient number to serve on the Jury, the Crown is to assign the cause of its challenges.

Attorney General.—Your Lordship observes, that in calling over this pannel, I think rather better than half are disqualified by ill health, or by want of qualifications, or by other reasonable excuses. It has occurred in the course of this trial, after the Jury were called over the first time, that the names of the defaulters were not called the second time, which I believe is usual. I appeal to my learned friends near me, that it had occurred to me, that the prisoner might be put into a situation in which I would not wish to place any man, by calling a person into the box to be sworn, after the 35

challenges on the part of the prisoner had been peremptorily taken. I feel it in this way, that he challenged A when he might have challenged B, instead of A, and therefore he must waive a challenge he had before made. I was about to get up to state this, and therefore I do not mean to answer the objection that was made by my learned friends. I am now therefore ready to admit it, and I will not press an answer to the objection; but I must ask that the names of the defaulters may be called over, that it may be understood, that the justice of the country requires that they must attend, and that an intimation to that effect should be given to them.

I wish also to state, foreseeing what would be the case from such a number of defaulters, that I am very desirous that the trial should proceed; and therefore I waive all objections to every one man upon the pannel.

The Jury were then completed from those Gentlemen to whom the Crown had objected.

[A great number of the Gentlemen that had been summoned on the Jury, paid no attention whatever to their summonses, but had gone into different parts of the country, on business or pleasure. A great number were disqualified, by not possessing freehold, or freehold and copyhold, in the county of Middlesex, to the amount of ten pounds a year. A number of them were above 70 years of age, and, on that account, excused from public service. A number were ill of the gout; and, we are sorry to state, that two were dead since they were summoned. This accounts for the difficulty of finding a Jury out of so great a number of Gentlemen.]

The names of the Jury appointed to try John Horne Tooke, Esq.

Mr. JAMES HAGGART, of Pancras, Foreman.

Mr. THOMAS HARRISON, of Greys Inn, London.

Mr. EDWARD HALE, of Highgate.

Mr. THOMAS DRAINE, of Limehouse.

Mr. MATHEW WHITING, of Stepney.

Mr. NORRISON COVERDALE, of Limehouse.

Mr. ROBERT MARIS, of Turnstile.

Mr. WILLIAM COOKE, of New Ormond Street.

Mr. CHARLES PRATT, of Tottenham.

Mr. MATTHIAS DUPONT, of Enfield.

Mr. WILLIAM HARWOOD, of Hadwell.

Mr. HENRY BULLOCK, Brewer.

The Jury being made complete, *Mr. Skelton, the Clerk of the arraigns*, read the Indictment, for a copy of which see No. 1. of the Trial of Mr. Hardy, page 10, &c.

Mr. Percival now opened the pleadings, being exactly similar to those in the case of Hardy.

The Solicitor General then opened the case. The Jury, he

said, had heard the Indictment, and therefore he should only simply observe, that it charged the Prisoner at the bar, in conspiracy with others, in compassing and imagining the death of the King; he was charged with having done different and various acts, if any one of which was proved, it would call on them to pronounce him guilty; the meaning and tendency of which was, to subvert the government and laws of this kingdom, and to depose the King.

The law in this case was perfectly clear. Any act done, the consequence of which may endanger the life of the King, is always taken to be in pursuance of an intent to compass the death of the King; this being demonstrated, the crime was completed. It was not material that the person charged should have it in his contemplation that the consequence would follow as stated, and that he believed it; it was enough, if the ordinary consequences to be apprehended from it, was the deposition of the King.

A conspiracy to depose the King was clearly an act of High Treason, because it tended to bring the King's life into danger, and in a degree to deprive him of his royal authority. Doing an act which the King shall be bound to obey, or be in danger by not obeying, such as forcing the Legislature, had been uniformly held to be High Treason. He should not detain them upon the law, because if they believed that the charge of conspiracy to subvert the Legislature and Government, and to depose the King, was proved, the consequence must necessarily follow that the Prisoner was guilty of High Treason. He felt so much the great importance of the case before them, and his own insufficiency for the task imposed upon him, that he should not enter as much into detail upon it as might otherwise perhaps be proper. He did not know whether the Constitution, to which he hoped and trusted a great majority of the people of this Country were sincerely attached, was to be destroyed, or whether they should rally around, and if necessary, defend it under Arms; but he had on this occasion reason to attribute to the Prisoner at the bar, with others, a conspiracy to bring that point to a trial, to depose the King and to subvert the Sovereign power and authority of this Country as by Law established, and to bring about by his own force, in conjunction with others, as had been stated in the Indictment.

Whatever the object of the prisoner was, whatever the consequence might be, whether one form of Government was intended, or another form, were points that he conceived to be quite immaterial, because any change as the prisoner intended, by force, must tend to deprive the King of his Crown and Dignity, and making him who ought to command to obey: and therefore High Treason.

Whether the prisoner was to form a new Government of King, Lords, and Commons different from what is now established, or by a King and one General Assembly, or a Government without a King, or with a King and without Lords, were questions in themselves quite immaterial, they all came to perfectly the same thing as to the effect of the charge against the prisoner; for the charge was, that he endeavoured to bring about an alteration of the established Government of this Country by the force of individuals, and not by the act of the constituted authorities and powers: this was the substance of the charge, and this, if proved, would most unquestionably amount to High Treason.

Considering the length into which the present Trial was likely to run, he thought it would not be fit for him to enter into the detail of the evidence which would be laid before them on the present case; he should, on that account, only give them the outline of it, which he hoped would enable them to join the several parts together, so as to understand the whole of it, and draw the result which he conceived they ought to do.

He attributed to the prisoner and others, a Conspiracy to effect a change in the sovereign power of this country by their own force. That sovereign power was at present constituted of King, Lords, and Commons, in Parliament assembled, and the King acting at the head of it, in the way which the Constitution required. He attributed to the prisoner, that he, for the purpose of effecting that Conspiracy, together with those with whom he acted, and with whom he was associated, had quarrelled, not merely with the Administration of the Government, or with the frame of the Constitution of that Government, but with the principles on which the Constitution of the country itself was formed; the objects were therefore radical.

It would be argued perhaps, that no Government can be lawful but what is founded on the Rights of Man; if so, the consequence must necessarily follow, that as every other Government is improper, it is the duty of every man to destroy every Government that was not so formed; and this must as necessarily be followed by anarchy and confusion throughout the whole world; for, according to their own definition of a lawful Government, there existed no Government lawfully formed.

If such was the design of these persons thus engaged in this conspiracy, every act towards the accomplishment of that design, he conceived to be an overt act of High Treason against his Majesty; for it was towards the accomplishment of a design they had in view, to subvert the Constitution; because they had declared that no Government, except such as were formed upon their principles, ought to stand.

We all knew when these persons were acting, what was passing in France; it was then said to all who were alarmed—Why are you afraid?—the situation of the two countries is very different; in France they have no Government; they proceed on a principle detested by all good men, and as it is not founded in the opinion of the people, it must fall, for a Government can only subsist by the opinion of the people; but the British Government is firmly and deeply rooted in the hearts of the people, and therefore you will have no cause of alarm; the argument was just, and the prisoner and others felt the effects of it, and they for their purpose held it out to the world, but secretly they were determined to destroy, if they could, that very attachment which they boasted of so much as being the best security of the country; for this purpose it was that they so industriously propagated the doctrine that no Governments was lawful but those that were founded on what they call the Rights of Man, which they interpreted to be the rights of equal active citizenship; the rights of equal active citizenship were necessarily inconsistent with the British Government, for such rights could not exist with an hereditary King, or an hereditary House of Lords.

The moment, therefore, it was determined that equal and active citizenship were parts of the Rights of Man, and that no Government was lawful except that which was founded on the Rights of Man, it was said in effect that the British Government was unlawful, for it was not founded on such rights; this must necessarily tend to destroy all allegiance, for it would be found that they came to the conclusion that the Government of this country was such as the people of this country ought not to approve.

He then proceeded to state the different sentiments in the book of Mr. Joel Barlow, and in the second part of the Rights of Man; by Mr. Paine; of the different correspondences between the Society for Constitutional Information, of which Mr. Tooke was a Member, and perhaps the parent; and the other various societies over the kingdom; and then he took notice of the different Addresses of some of these to the National Convention of France, as also of Mr. Paine's Letter to Mr. Dundas, from all which he inferred, that it was the view of the Leaders of these Societies, among whom the Prisoner was the most considerable, to establish a Republican form of Government in this Country; and, had he any other views, it became him as a man, considerably endowed by nature with talents, and greatly informed by education, publicly and expressly to avow them; but the whole tenour of his conduct was too manifest to admit of a comment in his favour: he had always acted in those Societies with a view of overthrowing their plan, to subvert the Government and all the

established authorities acting in it ; and therefore he must be guilty of the crime, with which he stood charged in the Indictment.

The Solicitor General proceeded, that after the war had taken place, and interrupted any intercourse with France, the Societies had still pursued the same system. They thought it necessary still to keep up the spirit to which they had given birth, and to cherish the expectation that some Revolution must speedily take place. For this purpose they had recourse to the expedient of petitioning Parliament for a Reform in the Representation, though they had no hope or intention that such a Reform should ever take place. In corroboration of this he referred to different papers of the Corresponding Society. He then went into the History of the Scotch Convention, which, he affirmed, if permitted to proceed as it had begun, must inevitably have terminated in producing a civil commotion.

There was no reason why they should assume the title of the Delegates of the People, except they meant to do something which was to be considered as the act, and be supported by the authority of the People. Affecting to derive their power immediately from the People, their intention no doubt was to supersede the intentions of the existing Government. He here referred to what had happened at the commencement of the Revolution in France, the example of which they seemed closely to pursue ; having the same object they were naturally led to adopt the same means.

He here read the resolution come to by the Convention, and ordered to be inserted at the end of their minutes, which he contended was equivalent to the resolution of rendering their sitting permanent. The chairman had in consequence refused to quit his situation, except by compulsion ; if the force brought to disperse that Convention had been unequal to the force which they possessed, what must have been the consequence ? They had already shewn, not unequivocally, a determination openly to resist government, and if any number of People had declared in their favour, a civil war must necessarily have followed.

He then took notice of the Resolutions entered into by the Constitutional Society, at a meeting at which John Horne Tooke was stated to have been in the chair, approving of the proceedings of the British Convention. He proceeded to comment on the Resolutions brought forward at a meeting of the Corresponding Society, at the Globe Tavern, on the 20th of January, which, he affirmed, could be construed no otherwise than as a Declaration of War against the Constitution—an appeal to the sword—open rebellion.

When they talked of having redress from their own laws what could they mean but their own force ? And whom could

they describe as their plunderers and oppressors, except those who composed the existing Government? He next adverted to the co-operation which had taken place between the Constitutional and Corresponding Societies. In one of their resolutions he remarked, that they made use of the term, "A Meeting," and said, that it was very difficult to discover the difference between a Meeting and a Convention. After briefly noticing the meeting of the Constitutional Society at the Crown and Anchor, he said that he need only call to their recollection what would have been the consequences if the proposed Convention had been permitted to assemble? The different resolutions of January appeared to him to prove, that it was their object to carry their intentions into execution by open force. These resolutions were indeed so expressed as lead to any thing, but by no means to a peaceable Reform. In his opinion they had been clearly guilty of High Treason, by substituting themselves for the existing government, and setting up their own laws in opposition to those of what they called their plunderers and oppressors.

The principal facts which he had stated could not be controverted nor explained away; it was impossible to suppose that a man of the prisoner's abilities could himself be either deceived or deluded with respect to the line of conduct he pursued, or the consequences it was calculated to produce. It would be urged in his vindication, that he had no other object than a Reform in the House of Commons, it would be asserted that he had expressed himself attached to the Constitution and the hereditary nobility.

But in the Rebellion of 1715 and 1745, were the persons concerned less guilty of High Treason because they might profess themselves attached to the Monarchy and Religion of the country, while they were embarked in a cause which might have terminated in the subversion of both? Men may profess loyalty, they may have it on their lips while in their hearts it may be far from them. Such was the case of Lord Lovet in the Rebellion. The French Convention affected to speak of the King with the greatest reverence, till such time as they had fully ripened their plans for his destruction. The greatest traitors may profess loyalty. Judas himself betrayed his Lord with a kiss, addressing him in the terms of "thil Master." If the prisoner was loyal to the Constitution, what did he mean by Resolutions recommending the publications of Paine and Barlow? What did he mean by Addresses to the Jacobine Clubs, and the French Convention, by the letters in which he describes Monarchy and Aristocracy as vipers grasping in the pangs of dissolution—by admitting Bar ete and Saint Andre, as Honorary Members of their Society, and holding out their speeches on a Government of insurrection,

and the murder of their Sovereign, to public notice. What was the necessity of a Convention, if nothing was meant but a peaceable application to the legislature for a Reform of Parliament? Can witnesses, to any number brought to prove professions of loyalty, do away the impression which must arise from the incontrovertible testimony of facts? The evidence was of that nature, which in his opinion was sufficient to prove the crime of High Treason charged in the indictment. I now, said he, sit down, leaving to you the care of that constitution with whose interests you are entrusted, and which you are bound to defend against attack, confident at the same time that you will not forget the duty which you owe to the prisoner as a member of society, and the claim which he has upon your justice and protection, and that under these impressions you will endeavour to discover what is the truth of the case, and having so done, give your verdict according to your conscience.

Chief Justice Eyre, then suggested to the jury that if they were so disposed, it might be a proper time for them to retire to take some refreshment. The judges remained on the Bench. In a few minutes the jury returned, when the counsel for the crown proceeded to call the evidence on the part of the prosecution.

Thomas Maclean was called to prove papers found in the possession of D. Adams.

William Woodfall was next called to prove Horne Tooke's hand-writing. In his cross examination by Mr. Tooke, he stated that he had seen him write in the year 1775, when he brought an advertisement to the office of the *Morning Chronicle*, for a subscription for the survivors of those Americans who had lost their lives in the battle of Lexington. The history of this transaction, which he detailed, particularly impressed it upon his memory.

Horne Tooke.—Mr. Woodfall you have a very good memory, but it surely must require more than a common exertion of your retentive powers, to be prepared to state the hand-writing of a man whom you saw only write once, and that at the distance of nineteen years.

Woodfall.—The circumstances of the transaction particularly impressed the writing on my memory, which has since been refreshed by your hand-writing having since at different times passed through my hands, and so very lately as the year 1791. To the best of my recollection the paper now shewn me is our hand-writing, so far as I can judge from the resemblance of hands.

Horne Tooke.—To prevent trouble and save the time of the court, I offer freely and willingly, if any paper is shewn me of my hand-writing, at once to acknowledge it.

Chief Justice Eyre.—In a case so extremely penal, I would

not feel easy if in consequence of such acknowledgement of a prisoner, more was to be made out of the contents of a paper than he himself was aware.

Horne Tooke. Of such a distinction I might avail myself in a case of a Libel, but not of High High Treason. In the present instance I am not conscious of having had a thought, of having done an act, or of having uttered an expression, which taken in all the circumstances of time, place and occasion, I have any hesitation to avow.

Lord Chief Justice Eyre. I had rather that the evidence should take its course.

The Clerk then proceeded to read some minutes in which the name of Mr. Tooke was inserted.

Horne Tooke—Is this evidence of my having been present at these meetings? It is indeed the most extraordinary that in my mind was ever produced. The greatest part of the trash read to me I never saw. Wherever my name is written by myself, I have no hesitation to acknowledge it. As to the contents of these books, the greatest part of them I never saw. My time, I trust, has been better employed than to read the same things over and over again for 30 years. I do not say that their contents are not innocent; some of them I deem even meritorious; but I do not wish to take to myself a merit which in the present instance does not belong to me."

Chief Justice Eyre.—"You ought not to break in upon parts of the evidence. You have a right to call upon them to state how that evidence is brought home to you; but the chain in its progress is necessarily composed of links."

Horne Tooke.—"A chain is necessarily formed of links; but it is my business to destroy these links, in the present instance."

Chief Justice Eyre—"But, without links, the chain cannot possibly be formed."

Horne Tooke—"It is my business, then, my lord, to prevent it being formed at all."

Mr. Erskine, adverting to the proceedings of the late trial, said, that all the matter brought out in the Solicitor General's speech, had excited in him no emotion. A number of papers had been read, the quality of which had already been determined by the verdict of a Jury.

He understood from the Solicitor General, that these papers were all upon which the charge of Treason was to be supported. He had heard nothing of arms, or of any intention of having recourse to force. A bundle of correspondences were brought forward, carried on by people with whom it was not proved that Mr. Tooke had any connection, and many of whom he never saw. How is this mode of conducting proceedings to be accounted for, unless the brief of the Solicitor General was made up of accusatory matter, from a printed

Report, a mode in which he trusted that no brief, on such an occasion, would never be made up again.

In the present instance, the overt-act charged was concerting the plan of holding a Convention, and the first evidence produced was a book found in Adams's possession, before it had been proved that any such Society as the Constitutional Society existed, or that Mr. Tooke had ever seen the book before. It was a clear rule that the best evidence ought always to be first brought forward. To have recourse to secondary evidence seems always to intimate a distrust of the primary.

On what ground could it be attempted to produce evidence to prove an overt-act of Treason, which should not be admissible even in a case of a Libel. Would it be said that this book should be read now, and afterwards brought home to the Prisoner? My Lord, the rule with respect to evidence is the glory of the English law: it results from an acquaintance with the human character, from a conviction that those who are to try the accused are men, and not angels, and is admirably calculated to guard against the danger of a hasty and partial decision. It is not permitted in the commencement of evidence, to rest strong matter, which in the course of a long trial, the Jury might not be able to discharge from their minds, and which though subsequent evidence might occur to do away its effect, might nevertheless, from that strength which always accompanies a first impression, retain its influence upon their decision.

Mr. Erskine then adverted to a question on this very point, which had occurred on the trial of *Mr. Hastings*, and to the decision given by the Judges on that occasion.

Chief Justice Eyre admitted that it was just ground of objection, not to the admissibility of written evidence, but to the reading of it till it was brought home to the prisoner.

Mr. Garrow, in consequence of some thing that had dropped from *Mr. Tooke*, complained of misrepresentations of his conduct on the trial, and of attacks on his character through the medium of hard advertisements.

Horne Tooke said that he did not intend to make him any reproach. No man had suffered so greatly as himself from such attacks. It had been said, "Cursed is he who reviles the deaf." During the last six months, in which he might be said to be deaf, dumb, and blind, not a day had passed in which he had not been attacked by papers in the pay of ministry, with the vilest calumnies. He had now a volume of them in his possession; and whatever might be his fate in the present trial, he trusted that the Attorney General, from his regard to justice, would be induced to vindicate his memory from the attacks of these unprincipled calumniators.

The Chief Justice Eyre said, that he trusted this explanation

would suffice ; for if every one was to bring forward the instances for which he had suffered from such calumny, they might find sufficient employment in hearing such complaints during the remainder of the trial.

Daniel Adams deposed, that he had been ten years Secretary to the Society for Constitutional Information, of which *Mr. Tooke* was a member.—He indentified the book in which the entries of the Society were made. He used to put down the names of members who were present and who were not present, the reason of which was, that sometimes members came into the room, and the names were put down, though they went away before the Society had proceeded to business. They were accustomed to dine together, and the names of all who were present at dinner were put down.—The Society was not formed until seven o'clock in the evening, by which time some of those who had dined, might have gone away. The first business was, to enter the names of the members, and to read the minutes of the proceedings of the former meeting. He did not know any corrections entered upon the minutes by particular members ; the books were only open to inspection during the meeting. *Mr. Horne Tooke* was frequently present, but commonly did not stay after dinner, as he lived in the country. The resolutions inserted in the books were copied from slips of paper handed to him by different members, whose names he could not take upon him to mention with any degree of accuracy. He generally put down the name of the person who was in the chair in the beginning of the evening, though he might not afterwards notice at what time he went away.

Cross-examined by Mr. Horne Tooke.

Q. *Mr. Adams*, you seem to be agitated ; let me beg of you not to be alarmed. I only wish to interrogate you with respect to your knowledge of certain facts. Were not the names of the members present entered on one paper, and the resolutions on different slips of paper ?

A. Yes.

Q. Was there not a Constitutional Club, different from the Society, which was merely a Dinner Club, at which every gentleman might be present who thought proper ; and a book belonging to that Club, containing merely the names of the persons who dined ?

A. Yes.

Q. You were, you say, ten years Secretary. When you were first appointed, was it not known and declared, that you had then a place under Government ; and was it not also understood that you had permission from those concerned in the department in which you were employed to become a member.

A. I believe it was understood by one who at that time was my very particular friend.

Q. Were not the books of the accounts of the Society seized along with the other books? What was the annual subscription for each member, and what might be the amount of all the subscriptions?

A. They were seized. The subscription for each member was a guinea; and the whole subscriptions amounted to about sixty pounds a year.

Q. What part of this was employed for the necessary purposes of the Society; such as the rent of the room, fire, candles, pens, ink, paper, &c.

A. About fifty pounds.

Q. So there remained a sum of ten pounds a year to overturn the Government? Had you any overplus in your hands, after the necessary expences were paid, or were not the Society generally in arrears?

A. They generally were in arrears.

Horne Tooke.—“ My Lord, I ask these questions in order to shew that if the Society had the intention ascribed to them of subverting the Constitution, how well qualified they were in consequence of their pecuniary resources to effect their purpose.” Mr. Adams, be so good as look over the names of the members stated to have been present at a Meeting held on the 5th of October, 1793; among which is the name of Tooke? Was he present on that occasion?

A. I recollect he was not present.

Q. An extraordinary meeting was then proposed to be held, within a few days, for the purpose of taking into consideration whether Delegates ought to be sent to the Convention at Edinburgh. Do you not recollect a particular circumstance by which you can ascertain that Tooke was not present?

A. Yes, I was directed to send summonses to the members to attend that extraordinary meeting. Among others I should have of course sent one to you, had not two members, Mr. Sinclair and Mr. John Williams, undertaken to wait on you in person, and inform you of what had taken place at the meeting.

Q. Was Tooke present at the extraordinary meeting?

A. I perfectly recollect that you were not present.

Q. Had you good reason to know that I strongly opposed the measure of sending Members as Delegates to the Convention at Edinburgh?

A. I recollect that it was so stated by Mr. Sinclair.

Q. Do you not remember that I made use of very strong expressions on the subject, and that even some wrangling took place between me and another member on the occasion?

A. I know that it was at the time understood by all the members that you did not approve of the measure.

Q. Was there not even a report in the Society, in consequence of the opposition which I gave to the measure, that I was bribed by Government for the purpose?

A. I recollect that there was such a report.

Q. You did not understand that Yorke was a member of the Society?

A. No.

Q. Was there any money for Yorke as a Delegate to the Convention at Edinburgh; and what proportion for Sinclair?

A. There was no money at all for Yorke, and scarcely any for Sinclair.

Q. Do you recollect having sent a letter to Sinclair while he was a Delegate at Edinburgh, or any part of its contents?

A. I wrote to him that it was the general opinion of the Society that no good was to be done, and that he ought immediately to come home.

Q. The letter, I think, was sent in October or November. Is there any copy of it upon the books?

A. (Shewing a letter) There is a copy of one letter, which I sent, advising him to return home.

Q. O, then you sent more discouraging letters than one to Sinclair on the subject of this Convention. Did I ever subscribe a single halfpenny on the ground of promoting this Convention?

A. Never. (Horne Tooke was then shewn a letter by the Attorney General, the back of which he owned to be his hand-writing.)

Horne Tooke.—There is one circumstance which it will be proper to remark: After the measure of sending the Delegates to the Convention at Edinburgh, the Society adjourned from the 8th November to the 6th December, and then to the 10th January. The Society, it appears, so little liked the business, on which the Delegates were employed, that they adjourned first a month, and afterwards five weeks. Mr Adams be so good as to look at the minutes of the proceedings of the 21st June, 1793. Do you not find the name of Yorke being present? Do you recollect what passed upon that occasion?

A. Yes; I recollect that Yorke was at the meeting, and that an objection was made to his being present, as not being a Member.

Q. Do you recollect whether any person endeavoured to persuade the Society to come to some declaration, and what was proposed in consequence?

A. It was proposed to adjourn.

Q. Do you recollect that afterwards an Address to the Nation was proposed, but never brought forward?

Horne Tooke.—I have here to remark one circumstance in consequence of what I understand took place in a preceding

trial, where one of the charges brought forward in order to attach criminalty to the proceedings of Societies in town, related entirely to what had been done and said by a person at Sheffield. If a member proposes something in a Society which is disapproved of, and not acted upon, and goes afterwards, perhaps, to a place three hundred miles distant, where he carries his purpose into effect, all the responsibility of his conduct is to attach, by implication, to the Society to which he belonged in town. This will be enough to shew on what grounds Treasons may be built.

Chief Justice Eyre. "The propriety of your remark depends on the nature of the case. Though the measure when proposed may originally have been rejected in the Society in town, yet if afterwards, when carried in the country, the proceedings connected with it shall appear to have been approved and acted upon by that Society, the responsibility will then fairly attach. In the instance to which you allude no wrong was done to Hardy, because the speech which had been delivered by Mr. Yorke at Sheffield, and afterwards printed, was clearly brought home to him by the evidence."

Horne Tooke. "The wrong then, my Lord, is done to us, who are to be considered as having sanctioned and adopted these proceedings of Yorke, which in fact, we disapproved and rejected."—(To the witness) "Did not Tooke, when he attended the Meetings, in general go away very early?"

A. He did.

Q. Have you not reason to recollect this from some particular circumstances? Has he not mentioned to you that his family was small, that he went to bed every night at nine o'clock, in order that he might rise betimes in the morning?

A. I have a perfect recollection of these circumstances.

Q. Do you not even recollect that when he has been imported to stay, his presence at the time being absolutely necessary to make up the number of members necessary, he has gone away in order to prevent the Society from doing business?

A. I recollect such to have been the case.

Q. Do you not also recollect that he proposed to the Society to lay on their oars, and advised them to adjourn to some very distant period?

A. Yes.

Q. Such conduct must appear rather uncommon in a person held out as the leader of a Society. You recollect that I signed in the minutes whatever I could consent to?

A. I certainly do.

Q. Who was considered as the father and founder of the Society?

A. Major Cartwright.

Q. Have you ever read the Reports of the Secret Committee of the House of Commons?

A. Yes.

Q. You are not acquainted with the books or papers of other Societies except from these Reports?

A. No.

Q. Was it the custom of the members to read over the book which contained the minutes of their proceedings during their meeting?

A. No they hardly ever looked at it.

Horne Tooke.—So far then from being accountable for the papers of other Societies, it appears they scarcely knew their own. The Secretary usually read them, but the Members, as generally happens, were all the while talking; indeed they were such trash as it was not worth while to attend to. Do you recollect what number of persons were generally present at the meeting?

A. The numbers varied; there were often above ten, in a few instances, perhaps thirty, and sometimes perhaps not more than five or six were present.

Q. Were they all armed with pikes and muskets, &c.

A. By no means.

Q. Did you at any time hear any talk of arms, of having recourse to force?

A. Never.

Q. Were the Members all unanimous in their sentiments, or did they sometimes differ in opinion?

A. They were extremely divided in their opinion with respect to the same object.

Q. And yet the guilt of treason attaches to them all. Was there no Secret Committee?

A. None.

Q. Did they appoint frequent committees of correspondence, and were those committees in the habit of sending letters to different parts?

A. They appointed several committees, but wrote letters only in one or two instances.

Q. So they wrote only about one or two letters in the course of ten years; a very alarming correspondence, and carried on to a very dangerous extent. There is one Resolution entered into by the Society, to print a hundred thousand copies of one paper: was that number ever actually printed?

A. No, they might print sometimes about 5,000 copies, but never above 10,000.

Q. Do you recollect a great number of correspondents to whom the Society wrote in Scotland, England, or Ireland?

A. No.

Q. Did they receive a great many more letters than they answered, and were they very much reproached on account of that neglect?

A. Yes! frequent complaints were received.

Q Do you recollect if another Member sometimes went home with me at an early hour in the evening?

A. Yes; I believe you were sometimes accompanied by Mr. Sharp.

Q. When first you became Secretary, was it the custom of the Society to print pamphlets and distribute them gratis?

A. Yes.

Q. And have they given up this practice for the last three or four years?

A. Yes.

Q. Can you recollect my saying on a particular occasion that the Society would never do you any good; did I not advise you to go and give to the persons concerned in the department under Government in which you are employed, all the information which you could respecting the Society, and lay before them all the books and papers belonging to the Society, of which you were in possession; and did I not say that I would justify you in such a measure?

A. I do not recollect the circumstance.

Q. Such, however, was the fact. As the Privy Council were in possession of your books of expenditure and receipt, they must have known what was the number of copies of any paper printed by the Society, and can Mr Adams guess why, when they inserted the orders that 40 or 50,000 copies of a paper had been ordered to be printed, the order had never been actually fulfilled?

A. I cannot possibly guess.

Q. Among the orders inserted in the books of the Society, with respect to printing pamphlets the phrase sometimes occurs, "For the use of our Correspondents in Ireland:" had the Society any Correspondents in that country?

A. None with whom I am acquainted.

Q. Did you not often hear me joke and laugh at the insignificance of this Society?

A. I certainly did.

Q. Did you ever hear me express myself in favour of universal suffrage? You seem rather confused or not rightly to understand the question. Did you at any time hear me say that every man ought to have a vote in choosing his representatives?

A. I have.

Q. Then you are the only man who ever heard me so express myself, as will appear anon from the other evidence. Do you recollect the circumstance of Major Cartwright bringing forward in the Society four propositions of the Declaration of Rights?

A. It must have occurred before my time.

Q. Were you present at the Anniversary dinner of the Society on the 2d of May, or do you recollect what passed?

A. I was present: but do not recollect any thing that passed.

Q. Do you recollect to have been present at the Anniversary of the French Revolution, in the year 1790, when East Stanhope was in the Chair?

A. I do not recollect.

Q. I find your recollection does not serve you on these particular subjects. Do you think from my general conduct in the Society, that I pushed them on to strong measures, or kept them back?

A. Some questions I thought you put strongly; in other instances you kept them back.

Q. Did you conceive from any thing that passed, that there was any intention to kill or depose the King?

A. By no means.

Q. Do you suppose it was ever in contemplation to take up arms?

A. No such idea was ever entertained.

Q. Do you think we were either bold enough, or strong enough, to have recourse to force?

A. No.

Q. Nor I neither. What then do you conceive to have been the object of the Society?

A. The object of the greater part, I am persuaded, was a Parliamentary Reform.

Q. You did not conceive then that they were only sly fellows, who said one thing and meant another?

A. No; I conceive they meant all that they said.

Q. You did not then conceive that whilst they talked of a Parliamentary Reform, they in reality meant something very different? you supposed them to be sincere with respect to this object of Reform: but did not you find them very much divided as to the manner of carrying it into effect?

A. The opinions on that subject were very various.

Q. Do you recollect the Society in Scotland, sending any letters which you did not answer?

A. I think I do.

Q. Have you kept back any part of the letters or papers of the Society?

A. None intentionally.

Q. Do you recollect soon before the papers were seized, the appointment of a Committee of Correspondence on the 4th of April, 1794, and in what way that committee was appointed?

A. It was appointed in the usual way.

Q. Do you remember that I being requested to become a Member, stated that neither my health nor sentiments would allow me to take an active part in the proceedings of that Committee?

A. I recollect you said your health would not allow you to become a Member.

Q. I find afterwards that a Committee of Co-operation was appointed on the 11th of April, to which my name appears, a circumstance of which I knew nothing till I saw it on the books. Was I ever present at that Committee?

A. I don't know that you ever were.

Horne Tooke.—I ask these questions not to attach blame to others, for indeed I conceive the matters charged, to be in themselves perfectly harmless, but only to push from myself circumstances in which I am no ways concerned.—Does Mr. Adams recollect the circumstance of my having proposed two books, in which were to be inserted the names of those who had, at different times, been members of the Society; the one to contain the names of such as were entitled to their approbation; and the other, the names of those who are deserving of the gratitude of the Society?

A. Yes.

Q. Does he not also recollect that the mention of these books was accompanied with not a little laughing, and that though such books were proposed, they never were actually made?

A. I perfectly recollect these circumstances.

Q. And yet on such circumstances as these, is to be founded a charge of High Treason. Does Mr. Adams recollect ever to have heard me say, that I have not slept twice out of my own bed for seven years?

A. Yes.

Q. Has he not also heard me state, that if there was to be a meeting of the Friends of Liberty for any good purpose at Wimbledon Common, in my own neighbourhood, I would certainly be there, though I was not disposed to go much farther?

A. I recollect to have heard you make use of words to that purpose.

Mr. Tooke.—I have no hesitation to avow the sentiment, for I certainly love Liberty very well near my own home.

Chief Justice Eyre.—If the books of the Society had been read with this key, I must own they would have made a very different appearance.

Q. Do you not remember a toast which I gave at the dinner

of the Revolution Society, in 1793, in the following words :
 “ May the People of this country never forget or forsake the family on the Throne, until it shall appear by their conduct that they have forgotten or forsaken the principles which placed them on it ? ”

A. I recollect that these were the very words.

Q. How long had the Dinner club been established ?

A. About four or five years.

Q. Was it not the principal object which I had in favouring its establishment, in order that I might be able to get home the sooner ?

A. Yes.

Q. What was your opinion of the great end in view from the co-operation with the Corresponding Society ?

A. In order to concur in the object of obtaining a Parliamentary Reform.

Q. Do you recollect if there were many persons black-balled, who offered themselves to become Members ?

A. Not above ten while I was Secretary.

Q. It does not appear to have been a very secret Society in which not above ten members were black-balled in ten years. Did Mr. Adams observe in the language or proceedings of the Society, an affectation or imitation of French terms and modes of expression ?

A. The books will tell.

Q. Yes. Did Mr. Adams send any notice to Saint André and Barrere, that they had been elected honorary members of the Constitutional Society, or he was desired so to do ?

A. No.

Q. Did he ever insert the speeches in the books, or had he any order for that purpose ?

A. No.

Q. Was the newspaper in which those speeches were contained ever in the Society ?

A. No, not to my knowledge.

Q. I ask these questions, because in the preceding trial I find that the Bookseller who had sold the very papers, is brought forward as an evidence in order to criminate the Society for not having them in their possession. Did Mr. Adams ever see or hear of Margarot's letter, printed in the Reports of the Secret Committee, Appendix F. No. 12, in which occurs this passage—“ We cannot say as much of
 “ citizen Sinclair, from the Society of Constitutional Infor-
 “ mation ; he has been confined to his bed ever since Satur-
 “ day, by a violent fever and sore throat ; he is somewhat
 “ better this morning. He is a valuable young man, and
 “ should he die, his loss would be severely felt, not indeed by

“ his Constituents, who have basely abandoned him, but by all the Friends of Liberty ?”

A. I recollect such a passage.

Q. So much then for the countenance and encouragement given by the Society to the measure of a Convention in Scotland. Do you remember that I quitted London on account of ill health and infirmities ?

A. Yes.

Horne Tooke.—I am ashamed to have taken up so much time with this witness, but I think it will tend upon the whole, rather to shorten than to delay the proceedings.

Attorney General.—Mr. Adams, you have been lead through a long train of questions, on a great variety of subjects ; be so good as to look to the proceedings on the 11th of April (shewing him a paper) beginning “ Mr. Joyce made the report.”

Q. You have said that the resolutions when taken down were not always in your own hand-writing ; there are three resolutions stated, can you recollect what part, or whether any part of the third of these resolutions is in the hand-writing of Mr. Tooke ?

A. These resolutions were copied by me from a rough draught ; and I really cannot take upon me say by whom they were written.

Q. In whose hand-writing are the resolutions of the Meetings of the 24th of January, 1794 ?

A. They also were copied from a rough draught.

Q. Did you know that the London Corresponding Society had met four days before ?

A. I never attended any meeting of that Society.

Q. Turn back to the proceedings of the 17th of January, on which day Mr. Tooke appears to have been in the chair. In whose hand-writing are the resolutions on that day ?

A. The latter part of them is my own.

Q. Do you mean then to say, that, they were begun by another whom you cannot recollect, and then finished by you ?

A. I was often during the meeting called out of the room.

Q. You cannot then take upon you to say, by whom the first part of the resolutions may have been written.

A. I believe that they may have been written by Mr. Bonney, but cannot be confident.

Mr. Adams was then examined as to the proceedings of the Society at a variety of periods, as recorded in the books. In several instances he could not swear to Mr. Tooke's hand writing, nor even express any belief or opinion upon the subject. In all these cases Mr. William Woodfall was called to supply the deficiency of the evidence.

Being asked by Mr. Tooke what he meant by the word So-

ciety, when he said that such and such resolutions were passed by the Society, he replied, he meant that such resolutions were passed by a majority of the persons present, that majority did not always consist of the same persons even for the same evening; and he inserted the resolutions in the books without knowing who were the persons by whom they had been carried. At one time when Mr. Tooke appeared by the books to have been present, the witness recollected from circumstances that Mr. Tooke was not present.

The Lord Chief Justice observed to the Jury, that what they had heard from the Books was merely to lay the ground for making admissable the Papers intended to be offered as evidence on the part of the prosecution.

Several of the Papers and the Extracts from Paine's Rights of Man produced on the trial of Mr. Hardy, were then read. Some delay arising in bringing forward the witnesses to identify these papers,

Mr. Tooke said, that to save time and trouble, he would admit such of them as he knew any thing of.

The Lord Chief Justice said he would not, in a trial of this kind, bind Mr. Tooke, even by his own admission. The proof must be strictly regular.

Mr. Tooke said he was afraid that, by the formality of regular proof, the Jury might be led to give more weight to these papers than they deserved. When they saw an Attorney and Solicitor General taking particular pains, and consuming time to substantiate papers, they might conceive that things which he considered indifferent, were things of importance.

The Lord Chief Justice said he had already delivered the opinion of the Court.

Mr. William Woodfall was called to prove the hand-writing of the next paper produced. Mr. Tooke said he admitted it. Mr. Woodfall's evidence was, however, taken.

A letter from Mr. Cooper, late of Manchester, was read. The purport of it was to ask Mr. Tooke's opinion of an abridgement of Paine's Rights of Man, which Mr. Cooper had been requested to make by the Manchester Society.

John Thompson proved that this letter had been found in Mr. Tooke's house.

Mr. Tooke. I know not what papers may have been taken from my house since I was taken into custody. Are letters written to me to be produced in evidence against me?

The Lord Chief Justice said, that all papers found in his possession were admissable evidence. How the contents would apply to him would depend on the proof that he had in some way or other acted upon them.

Mr. Tooke said, that, if so, he might be convicted of almost any thing; for although he did not answer letters, he

had letters sent to him of all sorts. The day before he was taken into custody, he received a letter affirming that the writer was God the Father, God the Son, and God the Holy Ghost, which was supported by various quotations from scripture.

The Lord Chief Justice. If you can treat them all with as much success as the letter of this correspondent, you will not have much to fear.

Another letter from Mr. Cooper was read, stating that a paper sent by Mr. Tooke could not be circulated, because the printers of the Manchester Newspapers would not insert it; asking advice about setting up a Democratic Newspaper, at Manchester; and complaining that he had received no answer to his former letter.

John Gurnell identified an original draft of the Plan of the London Corresponding Society, found in the possession of Mr. Hardy.

Mr. W. Woodfall proved that some alterations made in it, were the hand-writing of Mr. Tooke.

Thomas Maclean identified a letter from the Sheffield Society, addressed to Mr. Adams, and found in his possession. The Counsel for the Crown seemed at first to think that sufficient ground was not laid for reading this letter, but afterwards insisted upon its being read. Mr. Erskine and Mr. Gibbs objected, and after a short argument, the Court decided that it should be read.

The Lord Chief Justice said, they were come to a time of night when it was necessary to consider of the future mode of proceeding. The prisoner had said in the morning, that he would not request an adjournment of the Court till the trial was closed, because he apprehended it to be contrary to law. On that the Court must decide, and before deciding wished to hear both parties.

The Attorney General said, the evidence for the prosecution would necessarily require a good deal of time, but he was ready to do his duty in whatever way the Court should direct.

Mr. Tooke said, he felt only for public justice on the occasion, not for himself. He left the matter wholly to the Court. He would make no request, for, to comply with such request against the known forms of proceeding would be improper. Where the law was clear, even the consent of parties could not justify a deviation from it.

The Lord Chief Justice said, Mr. Tooke was perfectly correct. Since the commencement of the former trial, the subject had employed much of the attention of the Court. The law, to which he did not know of any exception in point of precedent, was, more especially in criminal cases, that the Jury after being impannelled could not adjourn or separate, or have

access to them allowed, till they had given their verdict. He quoted the case of a trial of a peer, not before the High Court of Parliament, but by a Jury of his peers, where the twelve Judges being consulted, delivered this as their opinion on the general principle which guided the Courts in which they presided; but they gave no opinion as to the rule for any other Court. Hence it was clear that there could be no separation or adjournment, except in cases of such evident and urgent necessity, that unless yielded to, would defeat the ends of justice upon which the principle was founded. In a case where it was manifest either that the evidence could not be fully heard, or that human faculties without relaxation must be unequal to the task, to insist on proceeding according to the strict rule, would be to deliver over the life and honour of the Prisoner, and the justice of the country, to the mere accident of such a verdict as the Jury might give when reduced to a situation in which they could not possibly exercise their understanding. The former trial had taken up two hundred hours; and even in the way in which it was proceeded upon, he had felt the fatigues. If one Judge were to sink under the fatigue, one of his brothers on the Bench might supply his place; but if a Juryman were to be destroyed, the trial must begin anew, with this disadvantage to the Prisoner, that he might come to trial the second time, after the greater part of his means of defence had been disclosed. Necessity, well established, might therefore over-rule or modify the general principle, provided the trial was proceeded on with all possible diligence. He would not put the Prisoner upon asking any thing; for he was clearly of opinion, that the Court ought to take the whole upon itself.

The Lord Chief Baron said the principle was, that after the Jury were impannelled, they should be inaccessible. The mode of affecting this, had hitherto been, by not suffering them to go out of Court. But if, in a case of evident necessity, this was secured in some other way, the principle would not be essentially trespassed upon.

Since the last trial, he had given the matter most serious attention, and was clearly of opinion that the Court was justified in adjourning. No time should be needlessly wasted; but after such long labours, both in justice to the Prisoner, and to all the parties concerned, an adjournment ought to take place. I conceive it most expedient, said his Lordship, for the prisoner not to have any concern in the application: the matter must rest on the physical necessity of the case; and the Court must be responsible for its conduct.

Mr. Tooke said, that he was afflicted with a painful disorder, to alleviate which his attention must be for three or four hours engaged each day while out of Court; and this being

taken into consideration, he hoped such adjournment would be made, as would allow him time for the necessary refreshment of sleep.

The Lord President then proposed that the Court should sit from nine in the morning till nine at night, allowing only about a quarter an hour for a little refreshment.

Mr. Tooke signified his ready acquiescence in the Lord President's proposition ; and thus was this difficult matter settled to the satisfaction of all parties.

At near eleven o'clock the Court adjourned to nine the next morning.

SECOND DAY.

November 18.

In pursuance to an adjournment on Monday, the Court was opened about nine in the morning.

Mr. Maclean being called, he proved that a letter dated March 14, 1792, from the Sheffield Constitutional Society, was found in the possession of Mr Adams, Secretary to the London Constitutional Society.

Mr. Woodfall proved that two alterations made in the above letter were in the hand-writing of Mr. Tooke. The first amendment inserted by Mr. Tooke, was, *A radical Reform of the Country*, instead of *A radical Reform of the Government*, as it originally stood.

Some papers of the Society for Constitutional Information, were next produced. For these papers the reader is referred to the trial of Mr. Hardy.

They then proceeded on the part of the Crown, to prove the Resolutions of the Society for Constitutional Information of May, 1792, relative to an Address to the Jacobins of France, and of their being ordered to be published in the newspapers ; then followed Mr. Paine's letter to the Constitutional Society, proposing to print a cheap edition of the Rights of Man, on which the Society voted Thanks to Mr. Paine for his communication in support of the Rights of the Nation, and Liberty of the Press, &c. Then followed the Address itself to the Jacobins in France, and after it an account of the numbers directed to be printed and distributed of Mr. Paine's Letter to Mr. Secretary Dundas, &c.

The next point in evidence was the Subscription to support Mr. Paine, after it was discovered he was to be prosecuted for the Second Part of the Rights of Man, &c.

The next article was an account in the book of the Constitutional Society, of the expenditure of the Society laid out by Mr. Adams, who acted as their Secretary ; by this it was for-

mally proved that Resolutions and other proceedings were publicly advertised in the newspapers, the sums paid for the insertion of them were specified, and it appeared that some of the conductors of papers had refused to insert the proceedings of the Society.

Several passages of the Second Part of the Rights of Man were then read, in order to apply to the defendant an evil intention, in voting thanks, subscriptions, &c. to the author.

These readings being over,

Mr. Tooke said, now that these parts of the book had been read, and the book made evidence, he believed he had a right to request that the Preface to that book be read.

The Court accordingly ordered the Preface to be read.

James Thornton, clerk to the Police-office, in Malborough-street, proved a letter from Mr. Hardy to Mr. Tooke, desiring him to revise an Address of the London Corresponding Society, and asking him whether it would not be prudent to send a copy of it to the London Corresponding Society? This letter was found in Mr. Tooke's house.

On his cross-examination by Mr. Tooke, he said, he did not recollect in what part of the house of Mr. Tooke he found the letter. Mr. Ford attended on the search for these papers, and there were other persons at this time in the house.—They did not take away with them all the papers in the house. Mr. Ford gave some to him; but there were others who had papers from the house as well as himself; and he had not the custody of all of them now.

Mr. Tooke.—I want to know, and to understand, if I can, how it comes to pass, that, when a number of men enter into another's house, all of them take the custody of papers—for one to take them, and then another to have the care of them? I want also to know what was taken from my house, in order that I may guess what was left in it; for, if I do not know that, I cannot tell what I have lost, as there are, or there were, in my house more papers than this Court can examine in one year.

The witness, being asked by Mr. Tooke, said, he did not know that Mr. Frost and Mr. Vaughan, who were there, took any papers.

On his examination by the Attorney General, the witness said, that he believed Mr. Frost and Mr. Vaughan were in the house as friends of Mr. Tooke; that Mr. Vaughan took a list of books and papers that were taken away.

Mr. Tooke (to the witness).—You say, Mr. Vaughan took a list;—others took papers away as well as yourself: now, I want to know, whether you know Mr. Vaughan to be possessed of such sense as to know what another man knows; or, if you have such sense as to know that which another man knows?

To this there was no answer.

A letter found by the witness (Thornton) in Mr. Tooke's house, was then read: it was to the following effect:—

“ *M. Margat* wishes to submit it to Mr. Horne Tooke's consideration, whether a plan may not be adopted for obtaining the assent of all the different Societies throughout the nation to an animated, but safe declaration, assuring the People of France, that we entertain the most friendly disposition, &c. &c. towards them; and that we will, to the utmost of our power, discountenance all hostile attempts on the part of Ministry, should the latter be base enough to forfeit the nation's pledge faith of fraternity. *M. M.* conceives that such a measure would do more good than a partial, and perhaps, comparatively speaking, an inconsiderable subscription; which, however, would be no ways impeded thereby. A similar declaration would certainly quiet their jealousies with regard to the English, and would encourage them in their arduous struggle, while the number of well-wishers to their Cause, who might come forward only with their signatures to the declaration, will give a most severe check to all open or under-banded Ministerial attempts.”

Mr. Tooke then asked the witness, whether he did not understand, at the time of finding this letter, that an attempt to quiet the French would be a measure which the present Administration would be glad of?

Mr. Bower said, that *Mr. Tooke*, he was sure, must immediately see the illegality of such a question, for it was asking a witness his opinion on the contents of what he produced in evidence.

Mr. Tooke said, that as the letter was found at his house, he only wished to shew that no evil was intended to be produced by it; however, he should not persist in putting the question, as the counsel for the Crown objected to it.

The next evidence was that of a letter from *Mr. Hardy* to *Mr. Tooke*, dated the 16th of September, 1792, of which the following is the substance:

“ Sir,

“ *Mr. Margat* would be glad to know your opinion on the proposition he has submitted to your judgment. I think with him that it would have a good effect, and at the same time the subscription would go on as it now does. Ten or twenty thousand signatures would have more weight than as many thousand pounds, for ten men might subscribe the sum,

Your humble servant,

THOMAS. HARDY.”

The evidence then called, related to addresses of the Societies, by way of thanks, to *Mr. Barlow*, &c. for his book, and afterwards, the address presented at the bar of the National

Convention, on behalf of the Constitutional Society (in the proceedings of which Mr. Tooke assisted), and of the account of the manner in which they were received and answered, and then the thanks of the Constitutional Society for what had been thus done, &c.

Mr. Thornton proved his having found at Mr. Tooke's house, a draft of a letter, which Mr. Woodfall thought was of the hand-writing of Mr. Tooke.

The substance of the letter was, that 4000 livres were sent with it to Paris, to assist the French in defraying the expence of the war, against all Tyrants who might oppose the Liberty of the French, without excepting any of them, even if it should be of his own Country, and wishing to know the name of a merchant in London, who might be trusted to receive subscriptions, &c.

The next letter was said to be an answer to the last, and found in Mr. Tooke's house, purporting to come from Mr. Pethion, the then Mayor of Paris, acknowledging the receipt of the former, politely returning thanks, and giving assurance, that the name of a proper merchant for the required purpose in London, would be sent soon, &c.

One of the Jury asked the time of sending the first letter.

Mr. Erskine said, it must be long indeed before the war between France and us, if it was when Pethion was Mayor of Paris.

The Jury having retired a few minutes for some refreshment, when they returned to their box, the Counsel for the Prosecution proceeded with the written evidence. A letter was read from the Editors of the Patriot, at Sheffield, to the Secretary of the Society for Constitutional Information, and the minutes of a meeting of the Society on the subject of this letter. A letter was then read from Stockport, to Mr. Hardy, Secretary of the London Corresponding Society. They were proceeding with some other papers, when

Mr. Erskine remarked, that he understood they were going to read the draft of an answer meditated to have been sent by Hardy to the letter from Stockport, and found in his possession; and asked upon what principle of justice or common sense such a letter could, in the present instance, be brought as evidence against Mr. Horne Tooke?

Chief Justice Eyre. "That objection has already been so often made, that I am rather surprised to find it should be again repeated. The letter in question is brought as evidence against Hardy."

Mr. Erskine. "He, my Lord, is acquitted; and how can that which was insufficient to convict him, be brought as evidence against the Prisoner?"

Chief Justice Eyre. "The charges brought against the Prisoner, relate to transactions in which several persons, and

among others, Hardy, were involved; though a Jury have determined that the share which Hardy had in those transactions was not criminal, it does not however prevent whatever is connected with them from being evidence against the Prisoner."

The reading of some other papers finished the written evidence for 1792, when the Clerk proceeded to read from the minutes of the Society for Constitutional Information, those resolutions which passed in the beginning of 1793, appointing St. Andre and Barrere Honorary Members, and ordering their speeches to be inserted in the books of the Society.

J. De Bosse was called to prove copies of the numbers, in which those speeches were contained, which he had regularly received from Paris, according to their respective dates.

Cross-examined by Mr. Tooke.

He said that he had never been in prison, that he had never been prosecuted, or threatened with a prosecution. Upon being asked, Whether he had been frightened by the Counsel for the Crown interfered, and said, "it was surely unnecessary to investigate what effect a subpoena might have upon the nerves of a witness."—The witness stated that he had sold as many papers as were ordered by regular subscribers; he sold them because they were sold by other people, under the protection of the law, particularly by the Clerks at the Post-Office; and he conceived that had the sale of these papers been either illegal or improper, it would not have taken place in a department under the inspection of Government.

John Horne Tooke. "I have no more questions to ask. You are a very honest man."

The Clerk then proceeded to read the correspondence from Norwich with the Societies in London, and then the minutes of the Convention held at Edinburgh, and papers of which, as they were repeatedly brought forward in the preceding trial, and as they are to be found in the reports of the Secret Committee, it is unnecessary to take any particular notice.

Horne Tooke "My Lord, I cannot see how any evidence with respect to the proceedings of the Convention at Edinburgh, can possibly apply to me. It has already been proved by the witness for the Crown, that though my name is to be found in the books, I was not present at the meeting on the 25th of October, 1793, when it was resolved to hold an extraordinary meeting, a few days after, to consider of the expediency of holding a Convention at Edinburgh. At the extraordinary meeting of the 28th, I was not present, and my name is not on the books on that day. It has been proved that I was not only absent, but that I was even averse to the measure; that I disagreed with others on that subject, and was upbraided on that very ground. Is it fit and proper then,

that papers should be read to make an impression on the minds of the Jury to my prejudice, when it has already been proved, that their contents ought not to affect me in the smallest degree?

Mr. Law.—The subsequent proceedings of the Scotch Convention will be brought home to you by the minutes of the Society of the 17th January, 1793, when you acted as chairman.

Chief Justice Eyre.—The general plan of the proceedings requires, that every thing connected with the transactions should be read. At the same time the observation of the prisoner is very fair and just.

Mr. Horne Tooke.—The reading of those proceedings of the Convention will hereafter be extremely useful in my defence. I only made the remark to save the time of the Court.

The *Clerk* then read the minutes of the Constitutional Society, on the 10th and 17th January, on both of which days Mr. Tooke was in the chair.

Mr. Tooke.—I beg that the minutes of the 17th may be read again. The Counsel for the Crown has stated that by the minutes an approbation of the proceedings of the Scotch Convention would be brought home to me. It appears that four resolutions passed on that day; I was present during the passing of the three first, and then quitting the chair, Mr. Gerald was called to succeed me, after which a fourth resolution was passed, approving of the proceedings of that Convention, to which Mr. Gerald had been a delegate.

In compliance with the desire of the Prisoner the minutes were read a second time, and they were precisely in the terms stated by the Prisoner.

A resolution in the hand writing of Mr. Tooke was then read, ordering an Address of the Corresponding Society to be inserted in the books of the Society for Constitutional Information.

Mr. Tooke.—Does this resolution refer to an address of any particular date?

Mr. Attorney General.—It refers to no date—though it very evidently applies to the Address of the Corresponding Society of the 20th of January, 1794.

The following circular Letter, written and signed by the Prisoner was then read:

“ I am directed by the Society for Constitutional Information to write to all the members of the Society, requesting their contribution towards the support of Mr. Sinclair. When the delegates from the different Constitutional Societies in Scotland, had met at Edinburgh for the purpose of consulting together, and concerting the measures which may be proper to be pursued, in order to obtain a fair representation of

the People of Great Britain in Parliament, Mr. Sinclair attended as Delegate from the Society for Constitutional Information, and behaved on that occasion with a moderation and temper which has not only been justly approved, but has much endeared him to this Society. For that conduct which we highly approve, Mr. Sinclair was indicted in Scotland, and returned to England upon bail. Since that time Mr. Skirving and Mr. Margarot have been sentenced in Scotland, for the same conduct as Mr. Sinclair, to fourteen years transportation. With the fate of Messrs. Palmer, Muir, Skirving, and Margarot before his eyes, Mr. Sinclair has returned to Scotland in discharge of his faith as a private man towards his bail, and in discharge of his duty towards an oppressed and insulted public—he has returned, but not to take a fair trial, but as he is well persuaded, to a certain conviction and sentence. Those sentences of transportation are novel both to England to Scotland, and exceed in cruelty and in impudence any thing practised in the odious and abhorrent reign of the Stuarts, and these sentences are to be carried into execution under the Administration of Mr. Pitt, and by him, who formerly, though hypocritically and treacherously, professed himself a specious Advocate for Parliamentary Reform, and himself met the Delegates throughout England, assembled in Convention at the Thatched-house Tavern, for the same purpose as that for which a Convention met in Scotland. Should it one day be the fate of this Mr. Pitt to be tried by the People of this insulted and oppressed country, for his treachery to the cause of Parliamentary Reform, we trust they will never consent to send him to Botany Bay. In the mean time we earnestly solicit your assistance to alleviate the sufferings of Mr. Sinclair in his situation, and afford him every comfort in our power under this his honourable and meritorious conduct; in which, and in worse, if there be worse, we declare ourselves ready to follow him in pursuit of the same object, viz. a fair Representation of the People in Parliament. (Signed by order of the Society,

JOHN HORNE TOOKE, Chairman."

THIRD DAY.

Wednesday November 19.

The Court met at nine o'clock, when the counsel for the Crown proceeded with the written evidence. The clerk read the correspondence that passed between Hardy and Skirving, of the subject on holding a convention in Scotland. (For these papers we refer the reader to the trial of Mr. Hardy.)

The first witness was Mr. Williams, who proved the hand-

writing of Mr. Thelwall, and being shewn a letter, he said believed the signature to be Thelwall's. This letter was then read. It was directed to Captain Jack Wells, for whom, the writer said, he had inclosed two dozen of his songs, which he might distribute among any persons who could sing them, they being calculated to do a great deal of good; and it was said *they sold like wildfire*. In this Letter he mentions an address, being partly his own composition, and partly Mr. Tooke's. It concludes with saying, "The wise men of Gotham would quickly be obliged to recal their troops from the triumphant republic of France.

Alexander Grant was called to prove a paper in the hand writing of Hardy. He said that the paper produced to him was so very different from what he had before seen in Mr. Hardy's hand, that he could not believe it to be his writing; but he afterwards said it was very like Mr. Hardy's writing. Nothing conclusive could be drawn from the testimony of this witness.

Some resolutions were now read, which were interlined in the hand-writing of Mr. Tooke.

Mr. Tooke. I recollect upon that occasion, the chairman being indisposed, to have taken a very idle part.

The Attorney General. My Lord, because the prisoner takes an active part in his own defence, it surely cannot be permitted that he should thus break in upon the evidence, and take liberties which no counsel would be suffered to take.

Mr. Gibbs. "In a case like the present, of life and death, none can be so intimately acquainted with the particular circumstances, or so well qualified to make remarks upon the evidence as the prisoner himself."

Mr. Tooke. My Lord, when I was interrupted by the Attorney General, I was only going to remark, that the clerk, in reading the resolutions, had read what in reality makes no part of them. There are two ways of erasing, either by striking through the passage, or by drawing a score round it. The clerk read that part of the resolutions round which a score is drawn.

Chief Justice Eyre. This is not the proper time to make the remark. At present the paper must be read, as the consideration of the passage intended to be struck out, as well as the whole of the contents, must be left to the jury.

Mr. Attorney General. I shall take the Liberty to follow the example of the prisoner, and go a little out of the way in remarking, that I shall afterwards have a great deal to observe on that very circumstance of the words being struck out in these resolutions.

The clerk then proceeded to read letters from the Societies in Scotland, expressive of their readiness to send delegates,

when they should be required, to a convention in England; and from the Societies at Bristol and Newcastle upon Tyne, very near to the same purpose.

The clerk also read the printed account of the proceedings on the Fast-day at Sheffield, 28th. February 1794. and the approbation of those proceedings by the Society for Constitutional Information.

Mr. Broomhead was here examined, and his evidence was precisely the same as that he gave on Hardy's trial, namely, that he had been for some time a member of the Constitutional Society at Sheffield, and had been Secretary of that Society for six months.

He declared upon his oath, that the Society at Sheffield had no idea of overturning the Government by force; they had no intention of opposing the person or authority of the King; they were as well disposed towards his Majesty as any subjects in England. None of the members, to his knowledge, had any hostile intentions against the person or authority of the King. The sole object was a Reform in the democratical part of the English Constitution—he meant the Representative part in the House of Commons. That was all he knew of, and he knew no other views in any of the Societies. None of them, so far as he knew, intended to go farther than a Parliamentary Reform, according to the Duke of Richmond's plan.

Charles Weddison said, he was a member of the Sheffield Society, which amounted to about 600 regular members. Their meetings were held once a fortnight; a general meeting of the Society was held once a month, and sometimes there was an interval of six weeks between their general meetings. There was a gentleman of the name of Yorke there about two years ago. He usually took the chair when he attended the Society.

He recollected that *Mr. Campbell Brown* was chosen a delegate from the Society to the British Convention. *Mr. Brown* had been a player, but when he came to Sheffield, he practised as an attorney. *Yorke* seemed to agree about the necessity of preparing arms. The witness made about a dozen, or a dozen and a half of shafts for pikes. He was a hair-dresser by trade, and dressed *Yorke* when he resided at Sheffield.—He was also a turner, which enabled him to make the shafts which he had described. *Yorke* asked him sometimes if he was going on with them. He said he thought they were going too far. He at last left the Society, and his principal reason for leaving it, was, that he had lately altered his opinion respecting Universal Suffrage.

On cross-examination by *Mr. Gibbs*, the witness said he was not an enemy to the King—God forbid that he should. He did not know a single person engaged in these Societies,

who had any wish or intention to attack the person or authority of the King. Had he known, or believed there had been such a member, he should not have continued in the Society. Their plan of reform was that which was published some years ago by the Duke of Richmond. They had no idea of producing that system of reform in the House of Commons by force. He had no idea that such a plan of reform was in agitation by any one member. He believed the pikes were only intended for the purpose of defending themselves. He remembered one particular occasion, when Gale's house was attacked by a number of people, and several of his friends were obliged to defend him; and he thought the pikes were intended to defend themselves against similar attacks. He had heard the people of Sheffield say, if there was an invasion, they would first fall upon them (the Society). He never understood that these pikes were to be used against the power of the Government. A person at Sheffield wrote inflammatory letters in the newspapers, and a book containing some account of those very papers was seized in the witness's house.

On re-examination by Mr. Law, he could only recollect one person of the name of William Frith, who said, if an invasion should take place, they would fall first on the Society. It was about a year ago, when he heard Frith say so, though no pikes were made till March last. He was never referred to a magistrate for protection. Justice Wilkinson came into Sheffield, at the head of a number of dragoons. There was a riot which the witness believed was principally occasioned by the Justice and soldiers enraging the minds of the people. He had applied to another magistrate at Sheffield, and had obtained no redress. Some parts of Paine's works were approved of by their Society; but the Duke of Richmond's plan was what they adhered strictly to, and adopted as much of Paine's works as was consistent with that plan.

A letter from Sheffield, dated April 24, 1794, describing the wood of which the pikes, &c. ought to be made, and sent to Hardy, was next read. That letter enclosed another to the Norwich Societies, which was also read.

Mr. Solicitor General said, he was going to produce to their Lordships, a paper prepared by Mr. Martin, containing resolutions, not the same that were entered into at Chalk Farm, on the 14th of April last, but that paper contained the draught from which those resolutions were actually prepared.

Mr. Gibbs here observed, that Mr. Martin was a Member of the London Constitutional Society, and therefore it had been determined, that every thing which he had done was evidence against Mr. Tooke.

Lord Chief Justice Fyre.—Every thing done by Martin, with relation to this general subject, is evidence against Mr. Tooke, Mr. Tooke and Mr. Martin being both members of the London Constitutional Society, and both being supposed to be engaged in one project, whatever is done by Martin, with relation to, and in pursuance of, that project, is evidence against Mr. Tooke.

Mr. Solicitor General said, he meant only to shew the manner in which Mr. Martin was connected with this transaction.

Mr. Shaw proved that the draft from which the Chalk Farm resolutions were prepared, which was in the handwriting of Mr. Martin, was found upon Thelwall, when he was taken into custody.

Mr. Evan Evans was called, and the draft being put into his hand, he said, he saw that paper in the possession of Mr. Martin in the King's Bench Prison, before the 14th of last April. Martin read over the Resolutions to him, and observed he had put plenty of Cayenne pepper into them, and that if they followed his advice, there would be warm work among them before the month of March.

Mr. Evans was cross-examined by Mr. Tooke, and, among other questions, he asked him if he knew a Mr. Nicholas Gay? The witness said he did not, but that he knew a person of the name of Richard Gay? *Mr. Tooke* said, the witness perhaps never heard of a strange circumstance that happened to Mr. Gay, when he was dining at the Society for Constitutional Information. In the course of his conversation, he was talking about travelling into Russia, where he believed, that Gentleman now was: a person who heard a part of Mr. Gay's conversation, but not the whole of it, asked a spy, where Gay said he was going. The reply was, "He is going much farther than I dare to say."

The Address of the London Corresponding Society to the Society of the Friends of the People, was here read. It was dated April the 14th, and addressed to Mr. Sheridan, the Chairman. The answer to it was likewise read.

Mr. Sharp examined by Mr. Law.

Q. I believe Mr. Sharp, you was a member of the London Constitutional Society?

A. I was.

Q. How long ago?

A. About two years and a half ago.

Q. Who proposed you as a member, Sir?

A. I do not now recollect.

Mr. Erskine.—He was proposed by Mr. Tooke.

Q. And how long did you continue to be a member?

A. From that time to May last.

Q. Do you recollect, that on the 28th of March, 1794, a letter was received from the London Corresponding Society, by the Constitutional Society, relative to the forming of a Convention?

A. I do believe, I do recollect something of it. I was appointed by the Constitutional Society, a member of the Committee of Delegation, who was to co-operate with Delegates, appointed by the London Corresponding Society.

Q. Who proposed you as a Delegate?

A. Mr. Tooke.

Q. Were you present when the Delegates made their report?

A. I believe I was not present.

Q. When was the report made?

A. I believe on the 11th of April 1794.

Q. Was you a member, Sir, of the Committee of Correspondence, or of the Secret Committee?

A. I know nothing of that.

Mr. Sharp cross-examined by Mr. Tooke.

Q. Mr. Sharp, I am glad to see that the counsel for the prosecution have the same good opinion of you that I have. Do you think that I proposed you as a member of the London Constitutional Society because I entertained a good opinion of you?

A. I certainly do.

Q. Mr. Sharp, you have often heard me speak on politics? Have you not often heard me say I would rather be governed by St. James's than St. Giles's mob?

A. I have.

Q. Have you not been very often at my house, Sir?

A. I certainly have.

Q. And did not our acquaintance begin from my desiring you to teach my daughters to engrave?

A. It did.

Q. From having been very often at my house, and from having very often dined with me, must you not know how I and my family lived?

A. I certainly must.

Q. Perhaps you might know that I had a horse in my stable, and rode out once a year, and very seldom walked to the outside of my gate?

A. I do not believe that you did ride out once a year, and you walked out very seldom.

Q. You can tell whether I had much company?

A. You had very little. When I was present, you spent your time chiefly in reading, in looking over old books, and in playing at whist.

Q. Do you recollect an anonymous letter being sent me from Ireland, enclosing a letter to Mr. Paine?

A. I cannot say I do.

Q. I will bring it to your recollection. Do you not remember that I called you to witness that I did not open it?

A. Now I recollect it.

Q. On the 15th of May, the day before I was apprehended, where did I dine?

A. In Spital Square.

Q. Do you recollect any conversation that took place about a letter from Mr. Joyce?

A. I do not know that you received a letter from Mr. Joyce.

Mr. H. Tooke.—This letter referred to the list of places and pensions in the Red Book, which Mr. Pitt has given to his own family, and to his creatures; and it was for this plot that I was apprehended the next day.

Lord Chief Justice Eyre.—If there is any letter in the hands of the Crown, which you think material to your defence, they must produce it.

Mr. Tooke.—Mr. Joyce's letter to me, when it was read in the Privy Council, was the subject of great alarm and apprehension, from the manner in which it was worded.

[The letter was put into the hands of Mr. Sharpe, who, upon being asked by Mr. Tooke, if ever he had seen it before: replied that he had not.

Q. Was any question asked in the Privy Council concerning that letter?

A. No, Sir.

Q. You have been present, Mr. Sharpe, in the London Corresponding Society, when I have been present?

A. I have.

Q. During the business relative to the Scottish Convention, at what hour did I use to leave the Society?

A. Sometimes you left it at ten o'clock at night, and sometimes earlier.

Mr. Joyce's letter to Mr. Tooke was here produced by the Counsel for the Crown. It was read, and is to this effect:

“ DEAR CITIZEN,

“ This morning, at six o'clock, Citizen Hardy was taken away on a sudden, as a sort of State Prisoner. They seized every thing they could lay their hands on.

“ *Quere*—Is it possible to get it ready by Thursday?

“ J. JOYCE.”

Mr. Tooke—Do you know, Mr. Sharp, what it was to be got ready against Thursday?

A. The publication of the large sinecure places and pensions from the Red Book which Mr. Pitt has conferred on his family and friends.

Q. Do you happen to know, whether the wording of that letter created any alarm in Government?

A. A person came to me and told me that some light horse had orders to be in a state of readiness, in consequence of that letter.

Q Mr. Sharp, do you know that I was desirous of very long adjournments in the Society?

A. I do. I have often heard you say you did not care if you never went beyond your gates.

Q Have you not heard me say that I wished there was an Act of Parliament to confine me within the walls of my house?

A. I think I have heard you say something like that

Q Have you read the Reports of the Secret Committee of the House of Commons?

A. I have not.

Q Were all the members of the Society of one way of thinking?

A. No, Sir.

Q Did they often differ?

A. They did.

Q Do you remember any thing like a Secret Committee?

A. I do not.

Q Do you recollect a Committee of Correspondence being appointed?

A. I do.

Q Do you know my opinion of universal suffrage?

A. You were against it.

Q Did you ever hear me say any thing against the Constitution of this country?

A. You always spoke for it.

Q Do you recollect any dispute on the subject of the British Convention between me and some others?

A. In 1793, inquiries were made of me, as a person who was intimately acquainted with you, whether you was not bribed by the court? for there was a report of that sort.

Q And what was the reason of such a report?

A. Your opposing the Scottish Convention.

Q When company came to my house, at what time did they usually come, and at what hour did they go away?

A. They might come at four o'clock, and sometimes went away at six and sometimes at eight.

Q Was the conversation always open; and might they bring any company with them whether I knew them or not?—I speak to you Mr. Sharp, as a person who has sat very often at my table, and as knowing how I lived.

A. The conversation was always open, and your visitors often brought along with them their friends, who were strangers to you.

Q Did you ever hear any dangerous or improper conversation pass in my house, either in the presence of those who

professed politics, or in the company of those who did not trouble their heads with politics?

A. I never did.

Q. Have you not heard me say, that if there was any disturbance in this country, that I myself should be the first victim, because I had opposed all parties?

A. I have.

Q. Do you recollect the speech I made on the 2d of May 1794, at the anniversary dinner?

A. I do not recollect what you said. I do not believe I heard what you said, as I was at the lower end of the room. I know you were severely censured by some gentlemen, who said you made an aristocratic speech.

Q. Was it difficult or easy to be admitted a member of the Constitutional Society?

A. It was a very easy matter.

Q. Was I remarkably diligent or remarkably careless about the business of that Society?

A. I thought you were very careless.

Q. Did you think, when I professed a desire for a Reform in the House of Commons, that it was a mere pretext?

A. I thought you uttered your real sentiments.

Q. Were you ever taken into custody?

A. Yes.

Q. By whom?

A. By an officer.

Q. By what authority?

A. By a warrant.

Q. What was the cause?

A. I do not know. I suppose it was on a charge of treasonable practices.

H. Tooke.—O! It was for nothing, but treasonable practices.

Q. Did you think the Constitutional Society had any other object in view but their professed object, namely, a Parliamentary Reform?

A. I did not.

Q. Do you think any of them had an idea of bringing about that reform by force?

A. No.

Q. When you, as a Member of the Committee of Delegates, was to co-operate with the Delegates from the London Corresponding Society, what was to be the great end for which you were to co-operate?

A. To obtain a Parliamentary Reform.

Q. Did you ever hear me speak against any of the establishments, civil or religious, of this country?

A. No, Sir, I never did.

Q. Have you not on the contrary, heard me maintain every establishment of this country ?

A. Your only object, as far as ever I heard, was a Reform of Parliament.

Q. Did you not sometimes from my conversation, think me a bigot to the religious establishment of this country ?

A. No. I thought you were of no religion at all. You allowed every man, after the best exercise of his understanding, to follow his own opinions in matters of religion.

Q. You did not think, however, that I would eat little children without being dressed ?

No answer.

Q. Have you ever heard of the Society of the Lumber Troop ?

A. I have.

Q. Do you know, that the first regulation of that Society is, that every man when he first becomes a member of the Society, has the privilege of knocking down a Bum Bailiff, Constable, &c.

Lord Chief Justice Eyre here interrupted Mr. Tooke, as the question was irrelevant. His lordship at the same time observed, that a great deal of this cross-examination, though not strictly correct, certainly went materially to M. Tooke's defence.

PRISONER'S DEFENCE.

At half past four in the afternoon, Mr. Erskine rose as Counsel for Mr. Horne Tooke, and, in a speech of five hours, entered with such masterly eloquence into the case, as to excite the admiration of the crowded Court—He spoke as follows :

“ Gentlemen of the Jury,

“ When I compare the situation in which I now stand up to address you, with that which I was placed in a few days ago in this place—when I reflect upon the emotions which then almost weighed and pressed me down into the earth, with these which at this moment, oppressed as I am with fatigue and illness, animate and support me, I scarcely know how to bear myself, or how to shape my course.

“ I stood up in this place to defend Thomas Hardy, not alone indeed, but supported by my excellent and learned Friend who sits by me.”

[Some men busy at work, who disturbed the Court, the Chief Justice sent out to prevent the noise.]

Mr. Erskine then said, that the interruption affording him an opportunity of repeating the same sentiment again concern-

ing Mr. Gibbs, which was very dear to him, and then went on thus:

“ I stood here as Counsel for a lowly, obscure mechanic, known only to persons obscure like himself, and I had to contend with what no man in England ever before had to contend with—I had to contend, in the first place, with the vast and extensive authority and influence of the Crown of England; I will not, after the late verdict, call it the crushing authority.

“ I had to contend against the dear, just, and natural interest which the Subjects of this Country must and ought to have in the preservation of the Chief Magistrate, appointed to execute the laws.

“ I had to struggle with the more generous and benevolent interest, characteristic of Englishmen, for the life of the Prince, to whom no personal blame is imputable, and who suffers more than any of his subjects, from the enormous abuses in the government.

“ I had to struggle with this under circumstances peculiarly adverse. Under an alarm propagated in part by honest zeal and enthusiasm against the Societies, whose acts I am defending—but propagated under the detestable dominion of the lowest and blackest hypocrisy, which ever degraded the human character. The Community being partly bribed, partly tempted, and partly duped to betray what had been formerly upheld as meritorious.

“ I had to fight with this, not in the face of an enlightened, in an ordinary season, but at a time when the face of the earth was drawn into convulsions—when mighty revolutions were shaking the earth, when bad men were trembling for what ought to follow, and good men for what ought not. When all the name of man as having any political rights was a supposed dagger at the throat. When all the principles of our free constitution, under the impulse of a delusive or wickedly infused terror, seemed to be trampled under foot.

“ But under all this pressure I could have looked up for protection under other circumstances. I could, as representing one of the people in a fearful extremity, have looked up to the Representatives of the People; to that mighty Tribunal above all law, and the parent of all the protections which the law affords to the subject.—I could have looked up to the Commons of England, to hold up its shield before the Subject against the Crown.

“ But in this case, that shield of the Subject, I found a sharp and destroying sword in the hand of the enemy. The protecting Commons was itself by corruption and infatuation the accuser; instead of standing up for the Subject, it acted

as an Old Bailey Solicitor to prepare the briefs for the Crown. The whole cause had been read from the reports of the Commons; no original labours of theirs, but collected from the files of newspapers, which every man had seen in every Coffee-house for years together. He had therefore to contend against an impeachment without the justice of such a proceeding. When a man, though a Commoner, is impeached, he is sent before the Lords for trial as a privilege, because all the Commons are in law supposed to be pledged by the accusation of their Representatives.

“The Lords, therefore, as being a balance against the Commons, is the refuge of an Englishman so impeached.

“But for this poor man there was no refuge. The Lords, themselves, were joint accusers; private Lords in office prejudged the cause, and insolently dictated what judgments Judges ought to give, and Juries to pronounce. I had, besides all this, to contend with an army of the most learned men in the profession, with all the weight and trapping of station.

“I had to wade through matter, which not only no mind can investigate, or bodily strength support to state, but to the utter disgrace and extinction of English criminal justice, which no porter could carry on his shoulders.

“I had to contend with a case which the Judges declared to be so new, that they were obliged to try experiments upon the legal Constitution to find away of trying it. I think the adjournment legal, though I wave no objections to its legality, nor am interested in this ridiculous case in considering them.

“But in waving that objection for the present, I may add to the pressures I am enumerating, a judicial decision that never existed before in this island; since upon no trial for life, the evidence ever extended beyond the ordinary compass of trial without adjournment. When, in the teeth of all this, the defendant, Hardy, was not only acquitted and his life saved, but honourably and triumphantly acquitted, with the universal approbation of an enlightened people. It raises up a whirlwind of emotion in my mind, that none but him who rides upon the whirlwind could give utterance to express. To his providence, ever watchful over this country, be all the honour and praise.

“Gentlemen, this view of the subject may me set down to

the prejudices of a religious education, or to the warmth of a mind naturally very warm, it is enough for me that they are views which I never can change, and which I know and feel to be just.

“ But there is another view in which every inhabitant of this island must look at what has passed with one accord.— They must feel the strength which the Constitution has acquired by the refuge it has in flying from the corrupt part of it, to that which remains in soundness and vigour.

“ It cannot but beget an affection for the Law, which is the source of all authority to Government, and of all protection to the governed. It cannot but invite men to be contented and happy in the forms of their Government, while it strengthens them in their efforts to preserve its substance from ruin; and unless they who administer the Government are blind to every interest, and dead to every sense of honour, they will embrace the opportunity of bringing back the People to their legitimate homes, by giving them the solid satisfaction which flows from the pure administration of our own Government, which will secure the King's throne, because it establishes the People's Rights. I have better opportunities of knowing than any other man can have the effects of the late verdict, and I know that if the conjuncture is rightly managed, it will produce universal satisfaction.

“ I know that the late jury are recorded throughout the Land, as the Deliverers of the Country, as the Guardians of Authority, by giving an example of its justice, and I shall think it a greater reward than any office which power can bestow, to have been the humble instrument in assisting them to redeem the Nation from a reproach, which would have blasted its honour and destroyed the security.

“ These are strong words, and not very pleasant to some who must hear them, but they bring no unpleasantness to any present.

“ The cause has been conducted on the part of the Crown with justice and candour. I have no complaint to make of the law, thank God I have not. An independant bar is another fold in the shield of the People's Freedom.

Having made these preliminary observations, Mr. Erskine then came directly to the cause itself. He proceeded to defining the crime as it stood in the indictment, the material parts of which he read, and laid it down as a principle, that there must be evidence of an intent to depose the King in the mind of the party accused, before any act done, and then there must be an overt act done, plainly demonstrating the intent.

He then defined the whole of the charge, and the law that applied to it, maintaining that there was nothing like a case made out against the Prisoner.— There was nothing that had

not been culled out of all the newspapers in the kingdom, and of course what every body knew, and the Attorney General did not affect to charge any body with any offence whatever, at that time. He then proceeded to take notice of what the Solicitor-General had laid down as the law in this case, and refuted it, and he was persuaded that learned gentleman would, upon reflection, abandon it, for if it was the law, he had rather die now, while he was opposing it, than live to the age of Mithusalem under such law. He then defined what was to be understood by compassing and imagining the death of the King, as also all the other acts declared by law to be Treason, and maintained that no one act charged by the evidence on the prisoner, amounted to any thing like it. If what other people had said in the absence of Mr. Tooke, and many of the acts charged against him were of that nature, were to fix him with High-Treason, any one of the members of any one of the Societies might also be convicted of High Treason. Nay, Mr. Erskine said, he himself might be convicted as having committed an act of Treason against the Prince of Wales, although he had once the honour of being his Attorney General, and who, although he had ceased to serve he had not ceased to love; he might be convicted, he said, according to the rules contended for on the part of the Crown in this case, because he might have been in company of some persons who had acted as members of these Societies had acted; or other persons might have sent him letters, which might have been found in his house, as papers had been found in the house of Mr. Tooke, and it would not do even for his Royal Highness himself to come forward to declare any thing in his favour; but such monstrous principles were not to be maintained at this enlightened day.

He then proceeded to state at large the opinions of Lord Coke, Judges Hale and Forster, the great law authorities on the law of Treason, and explained them all as he went on, and argued that there was not a sentence in either of their works, or in the statute of the 25th of Edw. the Third, that gave the least colour or pretence for charging the Defendant with the crime of Treason.

He next went on to consider the motives which the different Members of these Societies had in view, for although Mr. Tooke differed from most of them, he not being a friend to Universal Suffrage, yet he insisted on his Counsel, not by his medium, to say any thing in his defence that might prejudice the cause of the other persons to be tried on this accusation; he must therefore take up the views of these Societies; they formed the whole of their plan from the published and well known sentiments of the Duke of Richmond, it was in his Grace's sentiments all this plan originated; and the jury

would find, by evidence of the first men in the kingdom, in point of abilities and virtue, that a Convention was held in Guildhall, in the city of London, and in Westminster, where delegates met and received the instructions of their constituents, and they carried the Resolutions to the House of Commons, as these persons intended to do; and in one of them in particular, Mr. Fox, although he differed from the majority of the meeting, with regard to Universal Suffrage, yet Mr. Fox was under the necessity of complying with the desires of the company, upon the necessity of a Parliamentary Reform, and that good man might fairly be supposed to wish it; his arguments were numerous; he alledged that out of 513 members, 306, a majority, were sent to the House of Commons by 162 individuals, and on these points, all men had a right to deliberate and to collect the opinion of the public, in order that the evil might some time or other be remedied. By prosecutions for opinions it could never be removed, nor was that the way to silence discontent; let the people know that they are safe under the law, and let them understand to what law they are to look up for protection, and that they shall not be ensnared into crimes, as from these prosecutions it should seem that was about to be the case; let but this system be avoided and nothing upon earth would shake the allegiance of the people, for with them allegiance and protection went hand in hand. He had said that all these proceedings of these Societies had gone on the Duke of Richmond's plan, it would therefore be necessary to read some parts of that plan to the jury; which, having done, he observed; that had this been read by Mr. Snelton as part of the Speech of Citizen Yorke, or of any of the Resolutions of one of the Societies, then it must have been called Treason by the lawyers of the Crown; the question then was, whether those men published with a good intention what the Duke of Richmond planned with a good intention, or whether it was to be taken for granted, that they meant ill when they professed well, and that, where there was not the smallest evidence of evil intention. Against this doctrine Mr. Erskine quoted the sentiments of the Chief Justice himself in his charge to the grand jury. He observed also, it was curious that the counsel for the Crown should fix on Mr. Tooke's guilt for the proceedings of Chalk Farm, as he was not there, nor even approved of their proceedings there, at the same time they knew that Mr. Lovat, the chairman of the meeting itself, was a person against whom the grand inquest had refused to return the bill. He thought it hard also that crimes should be imputed to Mr. Tooke, for which Hardy had been tried and acquitted; if Mr. Tooke was guilty, Hardy must be guilty on all the proceedings of these Societies; nay, he might be a great deal more so, and yet the jury alter a long and painful investigation of the case, had acquitted Hardy.

God bless them! for long, long would their names be dear to every honest man in the kingdom for it. If there was not evidence enough to convict Hardy, there was still less to convict Mr. Tooke, for it appeared on evidence for the Crown itself, that there was nothing in the charge against him; they had made out no case against him on which the jury should take away the life of a flea; it was ridiculous to call it a charge at all, there was nothing to be found in the Arabian Nights Entertainment, that had less to do with a criminal prosecution for High Treason, than the evidence had to do in explaining the guilt of Mr. Tooke, as charged in this indictment. Mr. Tooke, who was charged with the guilt of the Convention at Edinburgh, did not even agree it should be held at all, and when Mr. John Williams went to his house at Wimbledon, desiring him to attend the Society, to appoint the delegates, he refused to attend, not that he thought the appointment illegal, but because he thought it useless, and for this he was called a spy and an aristocrat by the Society, and by the Crown he was charged as being a republican who deserved to be hanged. He next proceeded to take notice of the proceedings of the Convention at Edinburgh, and maintained that from beginning to end, there was nothing like any probability of their entertaining any hostile attempts against the great and powerful government of this country. That a hundred and thirty unarmed individuals, with something less than ten pounds in the fund, should be able to withstand the great standing army of this kingdom, was a thing too ridiculous to be thought of. Some of the Members of that Convention had been tried in Scotland, and of the legality of the proceedings there, some of those whom he thought the greatest men in this country, were of opinion they were illegal, and he believed the time would arrive, when Parliament would declare the judgments in these cases to be revised. However, these accusations in Scotland went no further than to charge these men with a misdemeanor; and yet now, for the very same thing, the Jury were called upon to shed the blood of the honourable Gentleman at the bar; if one man was guilty of Treason upon this, they were all guilty; all the Members of all the Societies were so; how many tenants will the minister have in his hands upon this case? But the truth was, thank God, that none of them were guilty, and so it would soon appear; for, it would be proved that Mr. Richter, now in Newgate upon this charge, had declared before he was taken up, and at the house of Mr. Thelwall, whom he was also ready to defend without fear of success, to as honourable a man as any living, Mr. George Rous, that they meant nothing more by their intended Convention than to obtain a Parliamentary reform, and asked his opinion on it, and if it

Should appear adviseable, they would not call the Convention at all, and they never did actually agree to call that Convention; and yet this was the great gunpowder magazine of all this Treason which had alarmed us so much, on the strength of which the Palladium of British Liberty was suspended—he meant the Habeas Corpus Act—and it was for this that men were to be hanged for High Treason.

He proceeded then to take notice of the charge of approbation of the works of Mr. Paine, as applied to these Societies, and particularly to Mr. Tooke. The truth is that Mr. Tooke had over and over again declared his approbation of several parts of that book, and as highly disapproved of all that part which abused Monarchy. The book itself would not have appeared in England but for the appearance of Mr. Burk's book on the French Revolution, to which it was an answer; and this same Mr. Burke, who now seemed to insist that every man ought to be hanged who did not detest every thing written by Mr. Paine, had himself, and that after this country had declared war against America, agreed with the sentiments written by Mr. Paine, in a work called Common Sense, from which the greater parts of the Rights of Man are taken. But it seemed that Mr. Tooke had entered into a subscription to support Mr. Paine, when he was under prosecution for publishing this book. The truth was not all known to the jury upon that business. In point of fact, Mr. Paine at this time was not a rich man, and after it was understood that he was prosecuted, there was a combination made against him that he should not be defended. I at that time, said Mr. Erskine, was Attorney General to the Prince of Wales; I was told that if I defended Mr. Paine I should lose my place; I did defend him, and I lost my place. He argued it was from an idea of this combination, so odious in England, that Mr. Tooke supported and countenanced this subscription.—Mr. Erskine having enforced these topics with wonderful energy, and after taking a general view of the impolicy of such prosecutions as the present, at any time, and more particularly at this time, and having read a beautiful quotation from Hume's History of England, on the manner of raising and supporting false plots, he came to the general character of his client, Mr. Tooke who was a man of great learning and genius, and certainly not a friend to a plan of universal suffrage, but a firm friend to the true principles of the Constitution of England, to prove which, Mr. Erskine read Mr. Tooke's Speech at the Crown and Anchor Tavern, on the first meeting in London to celebrate the French Revolution, in which he proposed to the company to avoid all misunderstanding to enter into a resolution expressive of an attachment to the Constitution of this country, and that we have not the cause for a Revolution which France had, &c. He

then desired the jury to hear Mr. Tooke's letter to Lord Ashburton, (Mr. Dunning) on the subject of Parliamentary Reform, a subject on which that celebrated character was then engaged.

Here Mr. Gibbs read the letter.

This letter to Lord Ashburton, (late Mr. Dunning) is known to every political reader, in which Mr. Tooke stated clearly his objections to all wild and unqualified schemes of Reform, and suggests what in his idea would be sufficient for all good purposes. Would it be believed that he had conspired to overthrow the Government of the country?—The book which had been just read would shew what were the gentleman's ideas on Parliamentary Reform. How moderate and how bounded his ideas were. Were they only a pretext for other and more violent objects? On the contrary, he would shew by the testimony of a number of the most honourable men then present in the Court, that from the year 1782 up to 1794, he had proceeded uniformly in the prosecution of the same object. It will be proved that Mr. Francis, a Member of Parliament, who had most honourably and usefully turned his thoughts to the same measure of Reform, had shewn Mr. Tooke his plan so late as the beginning of the year 1794, and that Mr. Tooke had said, a fourth or a fifth part of what he suggested would satisfy him. Mr. Sharp, who had been called as a witness for the Crown, had shewn the moderation of the Prisoner, and witness after witness, should be brought to prove, that if ever there was a man anxious and solicitous to avoid all disorder and confusion, it was the Prisoner; and yet, Gentlemen of Jury, you are called upon to consider him as a Traitor—as anxious to depose the King, and to compass his death, and, if you agree to their premises, to shed his blood! I trust him with perfect confidence in your hands. I must conclude by saying, that Mr. Tooke has the utmost title to my praise, for the manly, spirited, and disinterested rule of conduct which he has prescribed for himself, and which, at his instance, we have pursued. I was prepared to defend him in another way; I was prepared to save him from all the hazards of this trial, by shewing, that however erroneous, or even criminal others might be, that this gentleman was most perfectly clear from the imputations in the indictment.—I was prepared to steer his bark through the tempest, and to steer him happily into port; but, not the generosity of his nature would not leave others to be tossed on the waves, when he was riding in safety;—he insisted upon throwing out a rope to save the more indiscreet adventurers with him in the same voyage. I must applaud the sentiment of this heroism, and heartily second his virtuous intention, in shewing the innocence of his companions. Exhausted with fatigue, I must conclude this cause as I began the last, with praying that God

may enlighten your hearts, to give a true and faithful judgment in the cause. My heart is with the cause; and, I am sure, so is the heart of every man who loves the Constitution of his country. May your verdict make that constitution more dear to every one of us.

It was then half past nine o'clock. Adjourned to nine next morning.

FOURTH DAY.

Thursday, November 20.

The Court being opened a few minutes after ten o'clock, the examination of witnesses in behalf of the Prisoner was commenced.

Major Cartwright, the first witness called in the Defence, was examined by *Mr. Erskine*. The Major said he had been a Member of the Society for Constitutional Information from its first institution; and that the object of this association was to enlighten the Minds of the Public with respect to the nature of their just rights, to obtain a radical reform in the House of Commons, and to recover certain rights, which they conceived had been lost by the People.

Mr. Tooke here observed to the Court, that he had prepared a very large body of evidence, though he had no desire to bring forward any more of it than was necessary for his Defence. If the Court did not think that evidence absolutely necessary for his Defence, he was willing to forbear it.

Chief Justice Eyre observed, that it was not for the Court to say one word on the subject. All that the Court could do, when *Mr. Tooke* offered any head of evidence, was to say whether, in their opinion, such head of evidence was competent: but the Court could not take upon itself to give any intimation in any respect. If the Counsel for the Crown chose to do it, that was another consideration. His Lordship did not wish to narrow the grounds of *Mr. Tooke's* Defence, and said he was at liberty to lay it before the Court in the fullest manner that the rules of law and evidence would admit. The Court would not think any part of the time employed in the Defence wasted.

Mr. Tooke said he could not do otherwise than address himself to the Court.

The Attorney General conceived it was his duty to state, that, as the case he had made on the part of the prosecution had as yet received no answer, it was to be understood by the Gentlemen of the Jury, that he had proved the case laid in the indictment.

Mr. Erskine now proceeded in his examination of *Major Cartwright*, whose evidence was to the following effect. He

was an advocate for Universal Suffrage and Annual Parliaments. The original object of the Society was to procure a Parliamentary Reform by constitutional means, and the members had not deviated from that plan. The Society was instituted before the publication of the Duke of Richmond's Letter to Colonel Sharman. The Duke of Richmond's Bill was brought into Parliament before his Letter to Colonel Sharman was published. The nature of this Bill was known and approved by the members of the Society.

Major Cartwright said he had the honour of several conversations with the Duke of Richmond both previous and subsequent to the Bill being brought in, and assisted his Grace, as far as he was able, in carrying his plan into execution. There was a diversity of opinions in the Society on the subject of a Parliamentary Reform; some members thinking Universal Suffrage and Annual Parliaments were most agreeable to the Principles of the Constitution, and others being of a contrary opinion. Had he suspected any of the Society inclined to subvert the Government, he should have continued a member only for the purpose of moving for their expulsion. No member of the Society had ever brought forward a proposition calculated for destroying by force the Government and Law of the Country.

Major Cartwright had been intimately acquainted with the Prisoner at the Bar about sixteen years. He had known him in private life, and, being a member of the Society along with him, he could inform the Court what his opinions and principles were on the question of a Parliamentary Reform. Mr. Tooke always appeared to him, from the conversations he had with him, to be a steady, firm, and inflexible friend to the Reform of the House of Commons. That Reform was the plan he then held in his hand (the Duke of Richmond's letter). He did not know any particular objections that Mr. Tooke had to that plan, though he did not concur in opinion with it. If he had been to choose for himself, he would have chosen another. He never found Mr. Tooke floating between different opinions. Of all the men he ever knew, Mr. Tooke appeared to him to entertain the most steady and invariable opinion, respecting a Parliamentary Reform, from the first moment he had known him; his good sense rendered it unnecessary for him to alter his opinion on that subject. The Major never heard any thing fall from him disrespectful to the office of Royalty in this Country, but quite the reverse. In speaking on subjects of that kind, at any time, he always found Mr. Tooke maintaining that the Monarchical and Aristocratical parts of the Constitution of this country, were good and excellent in themselves; and that, in his opinion, the English Constitution was more perfect than any other upon earth. That, the witness said, was the general result

of all his conversations with Mr. Tooke for the last sixteen years. He had not seen Mr. Tooke since the spring of 1792. At that time he did not find the least variation in his opinions.

The Major said, he had heard Mr. Tooke use a simile, in order to shew that his object in a Parliamentary Reform, did not go so far as that of some others. He compared a Society for a Parliamentary Reform, to a number of persons who got into a stage coach, with an intention to travel to a certain distance. One man chuses to get out at Hounslow, another wishes to go as far as Windsor, and a third, perhaps, still farther. A Reform of the House of Commons, said Mr. T. is what I want. When I find myself at Hounslow I will get out—those who chuse to travel farther may; but no farther will I go, by G—d.

The Major said, that a letter which had been written by the Constitutional Society to the Society of the Friends of the People, dated 27th of April, 1792, and which had been supposed to be Mr. Tooke's, was not his.

Chief Justice Byre asked if that was not the letter to the Friends of the People, which produced the answer, that they declined having any further intercourse with the London Constitutional Society.

Mr. Erskine replied that it was.

The Major said, he had signed that letter as the Chairman of the Society, and consented to the sending of it. The object of the Society, in sending that letter to the Friends of the People, was intended as a serious, solemn warning to them, many of whom were Members of Parliament. It was not sent to convey a reflection on any particular man or number of men; but the Constitutional Society had conceived that some of the Members of the House of Commons, who had professed to be advocates for Reform, had not always performed their promises, and therefore that letter was sent to guard them against any such conduct in future. The witness said, he was a Member of the Society of the Friends of the People when that letter was sent them by the Constitutional Society. The Major said, as he was a Member of both Societies, he did not mean by that letter to convey to the Friends of the People something different from himself in another place. After that letter was sent to the Friends of the People, and after they returned an answer to it, he still continued a member of the Society of the Friends of the People, and was at that moment a Member of that society. They could not but know of that circumstance. *Dr. Towers* stood in the same situation in that respect with himself. The very object of the Constitutional Society was to support the Constitution, and to restore it to its true principles. He never heard of any moving towards force, arms, or violence.

He never had the smallest reason, from what he saw or heard to suppose there was any such thing in agitation.

Major Cartwright examined by Mr. Tooke.

The Major at first said, he did not recollect that he ever disputed with Mr. Tooke about what he, the witness, conceived to be an axiom. It was a passage in Locke. Mr. Tooke told the witness, when he came to examine it, it would not beat him out in the conclusion he drew from it: and that Mr. Locke's principle was not safe. *The Major* said, he did not wish to dispute with a man of Mr. Tooke's learning and abilities till he had taken the subject into further consideration; but it had so happened that he never did. He had heard Mr. Tooke speak generally in praise of Locke, and had often heard him dispute with those who praised democracy.

In his Cross-examined, by the Attorney General, he said, the last time he was present in the Constitutional Society, was the 25th of May, 1792; and he had known nothing of its proceedings except from hearsay, since that period. He was not a member of the Society, when they wrote to the Patriots of Sheffield, "That the vipers, Monarchy and Aristocracy, were reeling under the grasp of infant Freedom; and wished that success might attend its efforts." When he was asked, whether he would not have been surprised, if he had heard those words used in the Society, and applied to the Government of this Country, he answered, that it was a general question, to which it was difficult to give a clear and satisfactory answer. It would depend very much on the context. After the Friends of the People had informed the Constitutional Society that they looked on their proceedings and resolutions as irreconcilable with the principles on which they professed to enlighten the Minds of the People, he thought it unnecessary to write them any more letters. He believed the answer of Lord J. Russell was only carried by a majority of one person.

The Major said, he was in the chair at a Meeting of the London Constitutional Society, in March 1792. At that Meeting, they received a communication from the Friends of the People in Southwark, in which they stated (following the French Revolution of 1791) that equal active citizenship is equally the right of every man, and that was approved by the London Constitutional Society.

He was asked, if he, and the Friends of the People, had gone into stage coaches, whether he would have come out at Hounslow, or would have travelled farther on. *The Major* answered, that he would do what his conscience dictated to him to be right, and would allow others to go as far as they pleased. That part of Mr. Paine's Work, that was prosecuted, related to the Monarchy of this country. He

took it for granted, he was in the chair when it was agreed to support Mr. Paine against the prosecution that was instituted against him. He believed it was not then known what part of his works was the subject of prosecution, though it was known before the trial came on. He did not consider Mr. Paine's writings to have been published with a view to overturn our Government, but as discussions on the subject of Government. He had never seen Gerald in his life, to his knowledge, and the last time he saw Sinclair, was in 1792.

Mr. Tooke asked, if *Mr. Muir*, whose trial and shameful punishment the witness had read, had done nothing else that was amiss, except that for which he had been sentenced to 14 years transportation, whether, in his judgment, he would have had a right to have been admitted a member into the Society.

This was considered by the Court as an improper question.

Mr. Erskine stated, that he wished to read a letter which had been read in the last trial, but which would have much more force in the present. It was the letter which had been published by the Duke of Richmond, on the subject of Parliamentary Reform. The letter was accordingly read.

Mr. Erskine next offered a letter in evidence, that was written by *Mr. Tooke* in May, in 1782, and addressed to Lord Ashburton, on the subject of a Parliamentary Reform. This publication was occasioned by a motion which was made by *Mr. Pitt*, in the House of Commons, on May 7th, 1782, on a Parliamentary Reform; and contains sentiments on that subject contrary to those expressed by the Duke of Richmond.

The Attorney General opposed the reading that letter, as being irrelevant. It was said, because that publication contained the sentiments of *Mr. Tooke*, on the subject of a Parliamentary Reform, in 1782, it was no proof that he entertained the same opinion of a Parliamentary Reform in 1792. He also observed, that it had no relation to the conspiracy.

Mr. Erskine and *Mr. Gibbs* contended, that this letter ought to be admitted in evidence, on the same ground that all the evidence was produced against *Hardy* in the last cause.

The Attorney General made a very able reply.

Lord Chief Justice Eyre said, if that evidence was offered on the ground of a declaration of the prisoner, to contradict some other declaration against him, that was not a solid ground upon which it could be admitted as evidence. Nothing was so clear as that declarations, which a prisoner made against himself, were, by law, to be received as evidence

against him; on this presumption, that no man could be supposed to have made declarations against himself, unless they were true; and on the contrary, the declarations he had made for himself were no evidence, because there, the presumption was directly the other way. If it was insisted that it ought to be received on the score of general character, his Lordship conceived it could not be received on that ground, on account of the particularity of the subject; but in his Lordship's apprehension, evidence of this nature had been given in the other cause. The Attorney General had said, that letter had no relation to the conspiracy which was charged by the present indictment. Perhaps, strictly speaking, that was true; but the question was, Whether it had not a relation to proofs that had been given in the cause, and whether it was not proof to repel that? His Lordship was of opinion, that on that ground it might be read.

The letter was here read.

A large parchment, containing what was called an Associating of Gentlemen, for procuring a Parliamentary Reform, was put into the hands of Major Cartwright. It was dated in the year 1780.

Chief Justice Eyre asked for what purpose it was produced.

Mr. Tooke rose to answer his lordship, and began with observing on the strange mass of evidence that had been admitted in these prosecutions, such evidence as had never been heard of before. The Court had been compelled in this case to admit that evidence which had been the cause of the unprecedented length of these proceedings. By the Criminal Law of England, in every sort of charge, except the charge of compassing the death of the King, the inclinations of men were always taken for granted to be bad. In all other cases the act was the crime. Here the intention constituted the crime. Certain republican inclinations, antimonarchical inclinations, which were inconsistent with the peace of the country were to be punished. The intention of compassing the death of the King was alone the crime, and the overt-act the proof. In all other cases, the act was the crime. If he were convicted of an innocent overt-act, of a meeting to go to church with an intent to compass the death of the King, it would prove fatal to him. He said, the piece of parchment which he wished to produce as evidence, contained stronger assertions than any that he had ever used on the subject of a Parliamentary Reform. It had been signed by eight or ten Gentlemen of rank and consideration; by the Minister of this country, *Mr. Fox*, *Mr. Sheridan*, &c. and if he was a traitor, that parchment would clearly prove that those Gentlemen, who were undoubtedly among the most honourable and respectable in the country, were also traitors.

Lord Chief Justice Eyre informed *Mr. Tooke* that his guilt or his innocence did not depend upon what others, whose names were to be found on that parchment had done. His Lordship took it for granted, that *Mr. Tooke's* name was to be found among the other great names in that paper.

Mr. Tooke begged his Lordship's pardon, and observed, that the contents of that parchment were too criminal for him to sign.

Mr. Fox looked at his signature on that paper, and admitted that it was his hand-writing.

Mr. Erskine said, he meant to call *Mr. Fox* to prove, that *Mr. Tooke* attended a General Meeting of the Delegates of Committees from different towns and counties of England, who met at the Thatched House Tavern, to assent to *Mr. Pitt's* Plan of a Moderate Reform, and to return him thanks for the motion he had made in the House of Commons.

Mr. Fox said, he remembered seeing *Mr. Tooke* at the Thatched House Tavern, in St. James's Street. He thought it was in the year 1785. To the best of his recollection, that was a meeting of all the Friends of Reform, a few days after *Mr. Pitt* had made his motion. Particular gentlemen were appointed by particular districts to attend that meeting. To the best of his recollection, the object of those who called that meeting, was to express their approbation of the specific plan of Reform, which had been proposed by *Mr. Pitt*. He had not the least doubt but that *Mr. Tooke* attended as a friend to that measure.

On cross-examination by the Attorney General, *Mr. Fox* said if he remembered right, the general tendency of *Mr. Pitt's* plan was, a proposition, that, if Boroughs were willing to sell their right of sending members to Parliament, that right should be purchased of the boroughs, and, in lieu thereof, the right of election was to be given to the freeholders of the counties at large, or to certain districts.

Mr. Francis was next examined. He said he was a Member of the Society of the Friends of the People, that he drew up a plan of Reform of the House of Commons for that Society. He remembered seeing *Tooke* in the course of the summer 1793, and believing him to be one of the most learned men in the kingdom on such subjects, he begged of him to look at his plan, to examine particularly into the authorities alluded to in it. *Mr. Tooke* made some observations on it. He called on *Mr. Tooke* three or four times in the course of that summer. He approved of the plan in general, and said, if it could not be accomplished, short of that would satisfy him. His plan, he said, certainly did not extend farther than to a Reform in the House of Commons. *Mr. Tooke* told him, he had been applied to to be a Delegate to the Scotch Convention, but had positively refused it, in

consequence of which he had fallen into great disrepute with the Popular Societies.

On cross-examination by the Attorney-General, Mr. Francis said, that when Margarot and Hardy called upon him to present a petition to Parliament, he did not know they were associated Members of the London Constitutional Society. He did not understand that Mr. Tooke had been at all concerned with the London Corresponding Society, in regulating it. He was a Member of the Society of the Friends of the People, when Lord John Russell sent the answer to the London Constitutional Society, and that answer was carried by more than a casting vote.

The Duke of Richmond was examined by Mr. Tooke. He asked his Grace, among other things, whether, when he had called upon his Grace respecting some young men, his Grace had not asked what his opinion was of Mr. Pitt's plan of Reform.

The Duke said, he could not recollect.

Mr. Tooke asked, whether his Grace did not remember that he (his Grace) complained of the expence the buying of so many Boroughs would put the kingdom to; and that he, Mr. Tooke, proposed paying the Proprietors of Boroughs with a Peerage, and giving them an hereditary seat in the House of Lords instead of the House of Commons. His Grace was sorry he could not recollect it.

Mr. Tooke asked his Grace whether he did not recollect a Convention of the People, consisting of twelve hundred, from a number of different counties, at the London Tavern. His Grace said, he had some recollection of a meeting, though he did not know that it corresponded to the meeting that had just been described. He then asked his Grace, if ever he recollected him (Mr. Tooke) standing alone in an argument, and at last bringing the whole meeting into his opinion?

His Grace said, he had often heard Mr. Tooke argue with great abilities; but his Grace could not recollect any instance where Mr. Tooke stood alone, and brought over every one to his way of thinking.

Mr. Tooke asked, if ever his Grace heard him say any thing against the King or the House of Lords? His Grace replied, Never.

The Right Hon. William Pitt was next examined by Mr. Tooke.—A letter being put into his hand, Mr. Tooke asked him, if that letter was his hand-writing.—After looking at it, he answered that it was.

Lord Chief Justice Eyre asked, what the letter was?

Mr. Erskine replied, that it related to the importance of a Parliamentary Reform.

The Judge asked, what connection the letter had with this case.

Mr. Tooke said, that letter had the same connection with this case, that the Duke of Richmond's letter had with the case of Hardy.

His Lordship observed, that the Duke of Richmond's letter applied to the case of Hardy, because Hardy professed to follow the Duke of Richmond's Plan of Reform; and if that letter had contained the specific plan of reform opened by Mr. Pitt in the House of Commons, and for which a meeting according to Mr. Fox's evidence was called at the Thatched House Tavern, it would have been very proper evidence, because Mr. Tooke attended that meeting, and approved of that plan. If Mr. Tooke could shew that he ever acted on that paper, he might produce it.

Mr. Tooke said, he had never followed any other plan of Parliamentary Reform, than that proposed by the Right Honourable Gentleman; namely, that which was necessary to the independence of parliament, and the liberties of the people.

Mr. Pitt being asked by his lordship to what description of persons his letter was addressed, he answered that he could only judge from the contents of the letter to what description of persons it was directed; and he thought he must have sent it to some person who acted as a chairman to the Westminster Committee. He recollected nothing more about that letter. He said, he recollected a meeting at the Thatched House Tavern, relative to a motion for a Parliamentary Reform, which he had made in the House of Commons in May 1782. He could not recollect with certainty who were present: but he believed that Mr. Tooke was present.

Mr. Tooke asked, whether he, Mr. Pitt, had not recommended to endeavour to obtain the sense of the people throughout England, in order to be a foundation for a future application to Parliament?

Mr. Pitt answered, that he had no particular recollection of recommending such a measure. So far as he could recollect, it was the general sense of the members for recommending petitions to parliament in the next session of parliament with a view to reform.

Mr. Tooke hoped that his lordship would now allow him to read Mr. Pitt's letter.

His Lordship replied, that he was as far as ever from entitling himself to read that letter.

Then your lordship, I hope said Mr. Tooke, will let me have it again.—The letter was returned to him.

On cross-examination by the Attorney General, he said, there was nothing passed at that meeting respecting bringing about a Convention by delegates from different bodies of the people. There never was such a thing agitated in his presence.

Mr. Tooke asked him, what that meeting was, but a Convention of Delegates from different great towns and counties, appointed by committees of those towns and counties of England?

Mr. Pitt said, he had not a sufficient recollection how that meeting was composed; but he did not consider it as a meeting which was authorized to act for any body but themselves.

Mr. Tooke said, he would perhaps recollect that it had been objected in the House of Commons, that they came from other persons in a delegated capacity? He said he had no recollection of any such thing. He did not recollect exactly how that meeting was composed, and therefore did not know but that some of those persons might have been deputed by others.

Mr. Sheridan was next examined by *Mr. Erskine*. He knew *Mr. Tooke*, and had seen him at different public meetings held for the purpose of Parliamentary Reform. He had met *Mr. Tooke* in the year 1780, at a convention or meeting of delegates from different parts, who were to consider of the best means of procuring a Parliamentary Reform, and to act for those who deputed them. He himself was a delegate for Westminster, with five or six other gentlemen. The purpose for which they were appointed was to act in concert with the other delegates, to promote the object of a parliamentary Reform; and certainly, by all legal constitutional means, to interest and engage the public mind in that object, with an expectation certainly, that the influence of public opinion would so far operate on the House of Commons, as to procure them their object, which without an interposition on the part of the people, they had no hopes whatever of obtaining. The inhabitants of Westminster confided the means to the delegates entirely. It was a thing perfectly notorious, that the delegates acted for other Societies as well as themselves. They did sign a paper on which they did not sign themselves as delegates acting for other people: no man could possibly be ignorant of it. He conceived *Mr. Tooke* attended for the same purpose with the rest of them. Sometimes they were assembled in very great numbers from Yorkshire, Devonshire, &c. He considered them as delegated generally to pursue the best and strongest legal means to obtain their object. They were of opinion, unless Petitions came from the whole body of the people, that they would be perfectly frivolous and useless. We were to collect the sense of the people first in smaller meetings, and then that there should be delegates or deputies in larger meetings from all parts of the country. They never formed an idea that a reform in the House of Commons was to be effected by violence or force. They certainly did expect a degree of awe—not a wrong awe—

but that sort of awe and respect which was due to the collected sentiments of the people at large, when publicly expressed.

Mr. Sheridan was then examined by *Mr. Tooke*. He said, he recollected attending an anniversary dinner in 1790, at the Crown and Anchor, to celebrate the French Revolution, Lord Stanhope in the chair. On that day he made a motion, expressive of their satisfaction and joy at the establishment of liberty in France. *Mr. Tooke* expressed his full approbation of that motion, in respect to the propriety of the meeting. He stated that some intemperate resolutions might be voted; and therefore it was, that the witness made the motion alluded to, which was received with great approbation. *Mr. Tooke* did not directly object to the resolution, but he thought an unqualified approbation of the French Revolution might produce some bad effects out of doors, and might induce a disposition to a revolution in this country; or at least if it did not produce that effect, it might be misrepresented.—He objected to the circumstance of their having cockades, which they all wore in their hats. He made an amendment to the motion, by a declaration of attachment to the principles of our own constitution. *Mr. Tooke* compared the government of France to a vessel so foul, and so much decayed, as to be perfectly incapable of repair; and in contrasting it with our own, said “Thank God, the main timbers of our Constitution are sound:”—having before said that a reform was necessary. He said he remembered *Mr. Tooke*’s speech with more accuracy, as *Mr. Tooke* was received by some violent people with great disapprobation, and with very rude interruption. He said he had very often seen him received with very considerable marks of disapprobation, but never saw him much affected.

Mr. Tooke said, the people of this country had not so hard a task as the people of France. They had only to maintain and improve the constitution of their ancestors. *Mr. Tooke* made an amendment to the motion of the witness, which was negatived as an amendment, because they had met there to commemorate the French Revolution. The amendment, however, was afterwards put as a distinct resolution, and was then as universally adopted by the company as it had been negatived by them before.

Mr. Pitt here observed, that conceiving he ought fully to answer the question that was put to him, he had to add, that there was a meeting before he made his motion in Parliamentary Reform, and that that meeting was not at the Thatched House Tavern, St. James’s street, but at the Duke of Richmond’s, in Privy Gardens, where a number of gentlemen attended, some of whom were members of parliament, and others who were not members, but delegates from different counties.

It being four o’clock, his lordship requested the gentlemen of the jury to go out, and get a refreshment.

Lord Stanhope was called. He said, he recollected perfectly the meeting of the 14th of July, 1790; he was in the chair: it was one year after the destruction of the Bastille, and they met to celebrate that glorious event. The meeting was very respectable, and consisted of several hundred persons. Mr. Sheridan and Mr. Tooke were both present. Mr. Sheridan moved some resolution respecting France, and Mr. Tooke thought it too general. He said he should not flatter any man, though lately he had flattered the women. Here Mr. Tooke, he said, was hissed, as this alluded to his having canvassed for Westminster, and many Foxites were present; and it was with difficulty he was permitted to go on. When he did proceed, he spoke about our own constitution, and said, all the main timbers were sound, and only wanted some reparation. This was the substance of his proposition: he could not say that he recollected it with more precision.—He was perfectly persuaded that the Society, when assembled, had no intentions hostile to the constitution of the country. He became a Member of the House of Commons at the general election in 1780. He said he had attended many meetings for the purpose of a Reform in Parliament. There was one in 1782, when he thought Mr. Horne Tooke was present: it was after Mr. Pitt's first motion was negatived. Mr. Pitt made three motions: 1st, a general one; the 2d more specific, and the 3d contained a plan of reform, as follows: To advance one million for the purpose of buying up the rotten boroughs. Mr. Wyvill was a warm friend of this last plan of Mr. Pitt's; and chiefly through his means a meeting was held in 1785. It was then proposed to come to a resolution, which should give the sanction of the meeting to this plan. He was sure Mr. Tooke was there present, because Mr. Fox opposed the proposed motion, and Mr. Tooke spoke in defence of it, and of Mr. Pitt's plan. They met in their individual capacities; but he was at other meetings, when they met as a Society of Delegates, in the years 1780 and 81. He is not in habits of intimacy with Mr. Tooke in private life; nor does he recollect whether he was present at the meetings in the year 1780 and 1781.

On his cross-examination, he said he did not speak to any thing since the year 1785, except as above, in the year 1790.

The Rev. Mr. Wyvill was then sworn. He remembered the meeting in the year 1785. It was called through his persuasion. It was then intended to give some mark of approbation to Mr. Pitt's last plan of reform. There existed some difference among the members; but they thought the object would be better attained by the united voice and petition of the people, than while they were disunited. Mr. Horne Tooke was then present, and spoke in favour of the proposition. He could not with certainty recollect, whether he was present at the meetings in 1782. The object of those meetings was to animate the people to pursue

parliamentary reform by petition. This was the substance of the proposition there adopted.

Mr. Macnamara said, he was present at a meeting in 1788, at the Thatched-house Tavern. *Mr. Tooke* was there. *Mr. Tooke* moved some resolutions; but he did not take minutes of them. He could not, therefore say, what they were; but the substance of them he thought perfectly constitutional and loyal; and such as might be expected from a man who respected the Constitution of this country. He did not recollect whether they were carried.

Mr. Tooke asked, whether the members wore any particular dress?

Mr. Macnamara said they did; they wore blue coats with orange collars, and buttons with "King and Constitution" upon them. He knew *Mr. Tooke*, and had frequent opportunities of conversing with him during the time of the Regency Business; and from all he ever saw of the conduct of *Mr. Tooke*, he was persuaded no man was more devoted to the monarchy and aristocracy of the country.

Upon his cross-examination, he said, he went abroad in October 1789, and therefore could not speak to any transactions since that time.

Mr. Fielding (the counsel) was sworn.—He was present at the dinner of the friends of Lord Hood: but as *Mr. Erskine* was proceeding to examine as to the manner in which a particular resolution passed, the Court thought it was in no way evidence to be admitted in the present case.

Lord F. Campbell was present at the dinner alluded to; he recollected that *Mr. Horne Tooke* spoke, and remembers something of the propositions, but could not recollect their substance. He thinks nothing disloyal was said; he was certain nothing offensive was said.—(*Mr. Tooke* here read the resolutions to him.) The first was, "That the Whigs of 1688, thought a mixture of monarchy, aristocracy, and democracy, essential to the happiness of this country." Possibly those might be the resolutions, he could not recollect.

Lord Camden also said he was present, but did not recollect the effect of the resolutions.

Mr. Beaufoy remembered being at the meeting at Will's, but does not recollect any particular dress then worn. He also recollects some thing of the resolutions, but does not know what they were.

On his cross-examination, he said he had never seen *Mr. Tooke* but once since.

Mr. Tooke.—You say you never saw me but once since. Pray do you never recollect a time when you were unfortunate? Did you not meet me at Waghorn's coffee-house, and complain to me, that after all the support you had given to *Mr. Pitt*, he refused to return you the civility of a bow?

The Court interferred, and thought the question irrelevant.

Mr. Beaufey begged he might say, that he did not recollect any thing of that nature having ever passed between him and the prisoner.

Mr. Symonds said, he was a student of the Inner Temple, and a member of the Constitutional Society; had been frequently in company with the prisoner, and from what he could learn of his opinions, they seemed to be in favour of the monarchy and hereditary aristocracy of the country. The object of their Society was a reform in the House of Commons. He did not know of delegates being sent to the Scotch Convention: he did not approve of the measure because he thought it would be liable to misconstruction. If the Society had departed from their professed object he must have known it. He knew Sharp, Joyce, Bonney, Wardle, and Pearson; and believed them all good characters. If any conspiracy existed, he thinks he must have known it.

Cross-examined by the Attorney General.

He became a member the 1st of June 1792. He does not know *Mr. Joyce* was present when Barlow and Frost presented the Address to the National Convention of France. He never saw the drawing of "The Road to Hell by Hanover."—He did not know of the resolutions of the London Corresponding Society, signed, "Hardy," he knows the country Societies associated with them. He never saw the draught of the letter sent to Norwich. He had heard of the Address to the Convention; but he never knew *Margarot* had written to *Mr. Tooke* upon the subject. He never read a letter from the Editors of the Patriot. He does not know *Mr. Frost's* Address to the Convention, and the President's answer. He was not in the Society when the Address to the Jacobins was resolved upon. He knew nothing of the proceedings of the Scotch Convention, nor of *Skirving's* letter. He heard of the proceedings of the 17th of January, but was not present.

He never saw the rough draught of the Constitution of the Corresponding Society, corrected in *Mr. Tooke's* hand-writing.

Col. Money said, he was a *Marcehal de Camp* in the French service, up to December 1792, when hearing that a war was about to take place between England and France, he returned home. On his return, he waited on *Mr. Dundas*, and was at the levee. He never was reproached, either by *Mr. Dundas* or his Majesty, for what he had done.

The Lord President said, that this was no evidence, and he should strike it out of his book.

Mr. Tooke observed, that the point in which he meant it should bear, was—that it having been made evidence against him that he had some correspondence with France, he only

wished to make it appear, that others had done the same, and had received no reproach.

Mr. Maxwell said, he had known *Mr. Tooke* since 1792, had frequently dined with him at Wimbledon, and knew his political principles. He had always disapproved of universal suffrage. He had never heard him utter a word against either the King or the Constitution. On being cross-examined he said, he lived at Linlithlow, in Scotland.

Mr. May had known *Mr. Tooke* three years: he was not himself a member of any Society; he had frequently dined with *Tooke*, and had discoursed with him on political subjects. He always expressed himself a friend to the King and the Aristocracy, but he wanted a Reform in the House of Commons. He was steady to this sentiment, and had refused being sent a delegate to Scotland.

Captain Harwood said, he was an officer in the 19th Regiment of Dragoons; had known *Mr. Tooke* six years; had seen him almost daily, and had conversed with him on political subjects. *Mr. Tooke* had always declared himself for a King, Lords, and Commons, but said the last wanted Reform, and must be often petitioned, that it might be made ashamed of itself. *Mr. Tooke* was uniform and steady to this way of thinking. *Capt. Harwood* said, on his cross-examination, he was a Member of the Constitutional Society, and was present at different meetings of it. He recollected an Address of Thanks being moved to *Paine* and *Barlow*, for presenting their Address to the National Convention.

Mr. George Rous said, he was a Member of the Society of the Friends of the People. He was about to describe some transactions of it, when he was stopped by *Mr. Garrow*, who said this was no evidence. Some conversation took place on this head, and *Mr. Rous's* evidence was negatived.

Mr. Tooke said, he was anxious to close his evidence. He should only call one more, viz. the Bishop of GLOUCESTER.

The Bishop of Gloucester examined by Mr. Tooke.

He said he had known *Mr. Tooke* forty years; and for many years their intercourse was very confidential. Their acquaintance began in the University of Cambridge, in the year 1754. He recollects *Mr. Tooke's* wishing to take his degree of Master of Arts, which was refused, on account, as he had always believed, because *Mr. Tooke* had written some letters in the public papers against *Mr. Wyck*. He thought *Mr. Tooke* was ill-used in the business, and he had given his vote in favour of *Mr. Tooke*. He believed *Mr. Tooke* was a man of study, and never knew him to vary in his political sentiments, though he had often talked confidentially with him. He never knew that he was disaffected to the regular establishments of the Government. *Mr. Tooke* had often bor-

rowed books from him out of the University. He trusted Mr. Tooke was not capable of doing any thing which should overturn the Government.

Cross-examined by the Attorney General.

Do you know any thing of the Constitutional Society ?

A. No.

Mr. Tooke said, this was rather hard upon him. How should the Right Rev. Prelate know any thing of political clubs ?

Here the evidence closed ; and the Court adjourned till the next morning.

FIFTH DAY.

Friday, Nov. 21.

The Court having met at ten o'clock, *the Lord President* said, that in the opening of the prisoner's case much stress had been laid on the acquittal of Hardy, which ought not to have been done, unless it had been proposed to produce that acquittal in evidence ; and therefore his lordship suggested, that in his address to the jury it would not be proper for Mr. Gibbs to introduce the circumstances connected only with Hardy's case.

Mr. Erskine said, that when addressing a jury, he conceived counsel to have a right to mention any evidence, which he might deem essential to the cause of his client. It was intended to produce in evidence, the record of Hardy's acquittal ; but if this was thought improper, they would not contend for bringing it forward.

Mr. Gibbs thought they had a right to bring the acquittal in evidence, though they had not been able to get the record made up.

The Chief Justice said it was the custom of the Court, to read the minutes in evidence.

The Attorney General said, he had no objection to admit the acquittal of Hardy in evidence.

The Lord Chief Justice then said, that it was the opinion of the Court that the Record should be admitted in evidence.

Mr. Gibbs said, it now had become his task to defend the gentleman at the bar. He thought the best method of performing this duty would be, first to examine the law of the case as applicable to the facts, and next, what those facts were which were adduced as falling under the law. The law, he said, might be collected from the caption of the indictment, as it was called ; from the commission which empowered that Court to enquire into the facts, they were authorised to try all treasons in compassing the King's death ; the only

question therefore became, whether this gentleman was in fact guilty of compassing the death of the King, for though he should prove to have committed twenty other acts of treason, if they did not fall under that of compassing the death of King the Court had no jurisdiction to try it. Another place where they would look for the law, was in the indictment, that charges the treason and the overt acts. The charge there stated was, that the prisoner, with several other false traitors, whose names are to the jury unknown, did conspire, compass, and imagine the death of the King. This the indictment states as the treason, and it would have been good if every thing else had been omitted. The overt-act stated upon the same indictment, for the carrying the purpose into effect, was the assembling a convention, which convention, when so assembled, should depose and bring to death the King. It must state, that the acts committed were in order to fulfil the intent; and if they were not so charged, the indictment would be bad. It followed, therefore, they had to form their opinion from the actions, and from their tendency. It was true, several other overt acts were stated, but what was chiefly relied upon was, the drawing together a convention, which should depose, and consequently put to death the King. This was the sum of the charge—the death of the King was intended; and this, and nothing more, could be charged. He would now state to them the authority of the law which was contained in the statute of 25 Edw. III. a statute passed in what, as his learned friend had already told them, was called a blessed parliament. In effect, it guarded Englishmen from all those vague, obscure, and constructive treasons, by which, before that time, their lives and fortunes had been so often sacrificed. It was meant to protect them from that great state engine of oppression an undefined charge of high treason. It begins with reciting that, whereas before that time, men were afraid, and knew not how to speak, by reason that the pains and penalties of treason were so uncertain; and thence goes on to enact “ That if any one should compass or imagine the death of our Lord the King and *thereof* should be provably convicted by open deed, and by men of his own condition, he should be guilty of High Treason.” After this statute passed, treasons, which were before undefined, became settled and accurately pointed out. The same Legislators knowing how difficult it was for men to defend themselves from state prosecutions, and in their solicitude to protect and guard the subject from such oppression in future. To defend them from vague, loose and undefined charges, they further enact, That if any other cause should arise, not declared treason by the statute, but supposed to be so, that then the Judge should tarry, and not give judgment until the case should be shewn unto the King and Parliament,

and they had decided thereon. They had a suspicion that future Judges and Courts might introduce constructive treasons as former had done, and therefore they provided against it. Thus having searched for the law, in the commission of the Court, in the indictment, and in the statute, he would next see what were the opinions of learned lawyers upon the subject, and what they had said in their commentaries upon it. He here read the opinion of Lord Coke, which, in the course of these trials has been before often stated. Notwithstanding, however, all which has been done by the statute of Ed. III. succeeding times, and the practice of the last reigns which followed, introduced a number of constructive and new fangled treasons, so that it became necessary to pass another statute, which was accordingly done, in the 1st year of Queen Mary. This last statute directed to the statute of Edward to be observed, and enacts that nothing should be Treason, but such as was therein specially mentioned and enacted, so that by this, the law was again brought back to its old position. Now also was to be observed, the practice and conduct of great men, when acting under this statute. He would instance the case of Lord Russel, who was tried before Lord Chief Justice Pemberton, as able and upright a lawyer as any who ever filled the judicial seat. My Lord Russel was indicted for a design against the life of the King, during the reign of Charles II: and there was no reason to suppose that he was any way favoured, but that the law was exerted in its full severity against him. The overt-act to support this treason was, that he, with others, did consult and conspire to sieze the King's Guards. This he admitted, was a strong overt-act, and Lord Chief Justice Pemberton, in summing up that case to the jury, tells them the question was, Whether the prisoner had any design against the life of the King, whether he did compass to put to death the Monarch; and the fact of the conspiracy he leaves to them as a matter of evidence, merely, from which they would judge of his intentions. He puts it to the jury, whether the design of seizing the guards should not be evidence of his intentions, against the person of the King. But he leaves it to them, as evidence of his intention only. If, he says, you are con-

vinced, or believe, that it was in order to put the King to death, he had those consultations for seizing the guards; then you will find him guilty, if not, then you must acquit him. So did he also say to the Gentlemen of the jury, if you believe the prisoner at the bar to be guilty of compassing and imagining the death of the King, find him guilty. But armed with more than the authority of an advocate, armed with the authority of a judge, he said—If you do not believe he conspired the death of the King, then acquit him. So appeared the law, and it would not at all be necessary now to enter into the nice disquisition of a deposition of the King, without an attempt upon his life. If ever that should be necessarily discussed, they would have to decide between the statutes and the decision. Having thus examined the law they came now to the fact. The charge laid was, the compassing the King's death, and to fulfill this intent, he had conspired with divers others to call together a Convention. The Solicitor Oeneral, in his first outset, stated, that this Convention was to depose the King, and that it was to be done by force, that is by the prisoners own force, or the force of those who were connected with him; this was the accusation. They on the contrary said, that such an idea never once entered into his mind, until he heard it fixed upon him in that place. That he had another object, and that object he had proclaimed aloud to all the world; from which object he had never swerved, or deviated, either in public or private life; that this object was that of Parliamentary Reform; and after the evidence which had been produced to prove, that it was the real, the sole, and the full purpose of his mind, he thought it would be difficult for any one to doubt. They had said that this object was merely a pretence, and that the avowed purpose was designed to go much greater lengths. The Jury would decide, whether he designed to call a Convention for the purpose of destroying the King, and the question for them was the nature of the overt-act stated. Let them examine the nature of this overt-act, out of which they say this design is to be collected. It is proved, that on the 28th of March, a letter is received from the London Corresponding Society, to the Constitutional Society, proposing a concurrence in a certain object, which of itself is perfectly legal. They first debate, whether they should answer the letter, and they agree it is fit. The object proposed is, to pursue a certain plan, by Constitutional means; surely there was no compassing the King's death in this. Aye, but then there was a Committee; there all the mischief was going forwards; surely if the object itself was legal, it did not become Treason, because it was consigned to the hands of a few men as a Committee. The fact was, the Committee was appointed the 4th of April, and on the 11th, they made a report, stating, that a General

Meeting, or Convention of the Friends of Liberty should be held; and they had a debate too about introducing the word Convention, lest it should give offence to nicer ears. This may all be true; but there was another Committee of co-operation, and the mischief was brewing in secret among them. If mens words are not a sufficient criterion of their intentions, it is usual to resort to their actions, as a means of judging. What then did this Committee do? Up to the time of the 12th of May, when Hardy was apprehended, not a step had they taken, and this dreadful Committee, which was to guide the storm, had met, sat in their arm chairs, shook their heads at each other, but not a step further had they proceeded. Money was undoubtedly the sinews of war. Let us examine, therefore, how they stood prepared as to that necessary ingredient. Mr. Daniel Adams, their Secretary, told the Court, that the funds of this Society which designed to overturn Government, amounted to sixty guineas a year for the payment of their army, by which, doubtless, they meant to overturn the Constitution. But, in point of fact, it turned out, that the Society was frequently indebted to its Secretary; so that, if occasion required, they must issue their bank bills to pay their troops; for, he dared to say, they would not fight without pay, and there was no proof of any volunteers having stepped forwards. Yet this Society was the rich men who were supposed able and willing to support the cause, the others were only the *poor dogs*, who could contribute nothing. Ten guineas was certainly a good sum, and of much more value in Scotland than England? but yet they could not find enough to support their Delegate, Mr. Yorke, in Edinburgh. The subject of arms next claimed his attention. No such thing had ever been provided. Neither pikes, knives, nor musquets were found; and the Secretary, whom they examined upon this point, never heard of any such matters. He also denied the existence of a Secret Committee: he admitted, it is true, that there was a Committee of Correspondence; but so little did they correspond, that they were the subjects of ridicule, by their occupation so little warranting their title. They had said, that Reform was not their object, but he would prove it was their real and undisguised object. All the witnesses called, had proved it to be the object, and, if they failed in proving this, they failed in every part of the case. To attempt to controvert this, they endeavoured to fix to design of arming upon the Sheffield people, and then, connecting them with the London Societies, to charge a conspiracy upon the whole. But how did they succeed in that attempt. Both by the evidence of Broomhead and Widdison, it was proved, that all they did in the way of arming, was by way of self-defence, and in consequence of repeated provocation.

and insults. The next witness in order, was Mr. William Sharp, a Member of the Constitutional Society, a Member of the Committee of Correspondence and Co-operation, a man who must have been intimately acquainted with every thing that passed, who, if any conspiracy had existed, must unavoidably know it, one who, in the Bill of Indictment, was stated as a conspirator himself—What was his testimony? That Mr. Tooke had said, he would rather be governed by a St. James's than St. Giles's mob; and if he had designed to pull this Government down, without substituting another (and that was the charge) he must be governed by St. Giles's. He also said, that Mr. Tooke, had ever spoken of the Constitution and Aristocracy of this Country, with the utmost regard and reverence. Let it be asked, therefore, how this design to prove the compassing the King's death could be made evidence? All the written documents had not proved it—the parole evidence had not proved it—They had negatived it to a man. Adams, Sharp, Widdison, Broomhead, Davidson, all accorded—they had no design to destroy the Government, nor did they believe that any such design ever existed. It was no light consideration that, it had been proved Mr. Tooke was a man of firm and unshaken principles—he was never known to vary his object, and if a Revolution was to take place, he expected to be the first victim; for this reason, he had attached himself to no party—things, and not men were the objects of his attention, therefore, when one set of men professed their attachment to Parliamentary Reform, they united with him; when they changed their intentions, they left him. He continued still consistent and invariable.—When Mr. Sharp had closed his evidence on the part of the Crown, (and the whole of the evidence for the Crown had disproved, the case which they had been called to prove), they had disproved, that Parliamentary Reform was but a pretext—They had disproved what had been asserted against arming—They had negatived all they had been called to establish; but, say the gentlemen on the other side, there existed a general conspiracy, and in order to make out that case, they produce a mass of papers, letters, addresses, and resolutions without end; a multitude which took thirty hours in reading; to separate them, and arrange them was impossible, and to observe upon them was beyond the power of human strength.

From this mass of papers the jury was desired to infer that the gentlemen at the bar was guilty of compassing the death of the king, though no one paper could be relied upon as an overt-act of High Treason, or they certainly should have had it; and there was no such thing as an accumulated treason in the English law.—The addresses to the Jacobins and French Convention, were brought forward as heavy charges. All these happened before the war, when there existed the most

perfect amity, or at least professions of amity between the two countries. But it had also been endeavoured to fix the proceedings of the Scotch Convention upon his client. How did that fact turn out? At a meeting, it was proposed to send delegates to Scotland.—Mr. Tooke was not present, and as far as his sentiments could be gathered, he appeared very averse to the measure.—Another extraordinary meeting was held, and which, by the by, appeared to be a sort of a smuggled one; and then delegates were appointed. From this meeting also Mr. Tooke was absent—How then could they possibly fix the the conduct of those days upon him? Why then it was attempted to be done upon another ground.—He had written a circular letter in favour of Sinclair. It is true, he thought, that he had been hardly and illegally dealt with, and as a point of humanity, stepped forwards towards his assistance, although he did not wholly approve of what he had done. In consequence of this letter, he was attempted to be implicated. But waving all this—admitting he had consented to the sending of delegates to Scotland; and, admitting he had gone himself as a delegate—nothing done in Scotland amounted to High Treason, and he had the best authority for saying this—the authority of the judges who tried the causes there: for, if they had thought the crimes there committed, had amounted to the crime of Treason—they would have been in duty bound, and certainly they would have done it—they would have caused them to be tried for that offence. They passed improper resolutions, he admitted; but that did not amount to Treason. They said, they would resist the passing of certain laws; but that was not Treason. He said this upon the authority of Sir J. Frenn's case. Lord chief justice Holt there lays it down, “That a conspiracy to repeal any law, by force of arms, is not High Treason; but, if they do take arms, it is then a levying war against the king, and it becomes Treason; but the bare conspiracy to levy war is not so—*a fortiori*, a conspiracy to prevent the passing of a particular law, is not included in the crime. Another mode that had been attempted to affix the conduct of the Scotch Convention upon Mr. Tooke, was, by the resolutions of the 17th of January—but how did that fact turn out? Mr. Tooke disliked them, and quitted the chair, when they were put, which was taken by Gerald, the very man who was stung with the apprehension of those very judgments of which the resolutions complained. The approbation to Paine and Barlow was another means used to prove he had compassed the death of the king; but if he approved of a book in general, must it be supposed that he approved of every sentence it contained; he might approve of those works as speculative treatises upon governments, without assenting to the obnoxious

parts. It had appeared in evidence, that he was always averse to a Republic; he was continually saying his object was a parliamentary reform, and that only. Mr. Sharp had told them, that he would not even go beyond his principles. Major Cartwright had told them the same; the 1st gentleman was a friend to Universal Suffrage;—Mr. Tooke was not; and he had used the simile of a stage coach in which men travelled the same road to different distances. “I (said Mr. Tooke) go as far as Hounslow, there I stop—you may go to Windsor, if you please.”—Mr. Solicitor General had stated, that force was intended to be used, in obtaining their object—but where existed there the least trace of any force having been provided. He admitted that it was not necessary to prove a force adequate to the object, for it in general has hitherto happened, that those who had aimed at the destruction of the monarch, were pretenders to the crown; and, if they had a force in other countries, which was destined to support them, it amounted to the same thing. The other branch of the charge, the conspiracy, he thought as little proved. The indictment stated, the gentleman at the bar, together with Thomas Hardy and others, did conspire, &c. &c. Thomas Hardy had been tried and acquitted. He was placed in the fore front of the battle—Was it not of importance, that they should bring forth their strongest case first? He was Secretary to the most obnoxious Society, and therefore must have taken a most active part of the conspiracy, if such conspiracy did exist. If he had been convicted, would it not have been dinned in their ears, that twelve honest men, mindful of the prisoner, but also mindful of their country, had upon their oaths, declared a conspiracy to kill the King did exist, and that the prisoner was a party thereof? He begged to borrow all these arguments in favour of Mr. Tooke, and to say that the Jury had negatived the conspiracy. He must say that the Jury would but ill have acquitted their duty, if they had not felt an impression from the forcible and energetic address of his learned friend; but as his client had been accused of using Parliamentary Reform, as a mere pretext, he would lay open, and he had laid open, all his conduct, both in public and private life, and would incontrovertibly shew his real and sincere object was Parliamentary Reform only. Here Mr. Gibbs reviewed all the evidence brought forward to support Mr. Tooke’s political character. The evidence of Mr. May, Major Cartwright, the Bishop of Gloucester, &c. His conduct in 1780—82—83—90—92; from the whole of which, he said, his character must appear in the most distinct manner. He had entered into this detail at the desire of his client, for he professed he felt not the least anxiety for his fate. He would have advised him not to have said any thing, for he thought the case made out on the part of the Crown did not require

an answer. As a professional man, and unattached to any party, but intermingling with men of all parties, he did not scruple to declare, he thought it impossible for any Jury to pronounce the verdict of *Guilty* against the Gentleman at the Bar; and he was convinced, nothing could give a ruder shock to the Constitution of this country, as far as related to the distribution of its laws, than such a verdict upon such evidence.

Chief Justice Eyre.—Mr. Tooke, it is proper that I should inform you, that if you wish to address the Jury for yourself, you have an undoubted right so to do; and this is the time to do it. You cannot be permitted to make any observations after the reply, or after the summing up.

Mr. Tooke said, he was afraid that he had already spoken too much, and too often, and therefore should not give their Lordships or the Gentlemen of the Jury any further trouble.

Mr. Attorney General next replied on the part of the Crown. He protested, in the most solemn manner, in the presence of his Country, and in the presence of God, that the only object he had in view in these prosecutions, was public justice and the peace and security of the country. This was a cause which involved in it the most valuable interests of the community at large. It was a prosecution involving in it every interest, which at that moment, and at future periods, could be valuable to the gentleman who stood at the Bar. He begged again to repeat what he had said to the Gentlemen of the Jury in another stage of this business; that he should be an unfaithful servant of the public, if he ever forgot, for one moment, to exert his attention to remember it—that the distribution of justice, such as that gentleman was entitled to, according to the laws of the land, was one of the most sacred duties, which he, in the character of Attorney General had to discharge. The Gentlemen of the Jury would allow him to say, that from the commencement of these prosecutions, which had taken place in consequence of steps taken by one of the highest Councils of his Majesty, the Parliament excepted; and they had been carried on to a certain extent by that highest Councils of his Majesty, the Parliament in the suspension of the Habeas Corpus Act; in consequence of this, the case of the Gentleman at the bar, and of others concerned with him, was carried before a Grand Jury, and that Grand Jury had found bills against them. When the prisoner yesterday intimated that he had no intention of producing evidence, unless it should be deemed necessary to his defense, the Attorney General said he should have been very glad if he could have put it at once to the Gentlemen of the Jury; but he declared he could not, consistently with that duty which he owed to the public. It was his duty to state the circumstances of the case as he under-

stood them. Whether he stated them correctly was for the Jury, not him to determine. His learned friend had in the course of his speech that day, told them that he had no political connections in this country, and that he delivered his own opinions on this subject. The Attorney General said he would declare in the face of his country, and he defied any man to contradict him, that he stood in his present situation only in consequence of the industrious exertion of such talents as God might have given him; and he declared that he would not have moved one step in these prosecutions had they been repugnant to the dictates of his own judgment, exercised according to his own conscience; and they would allow him to say, that in all that had passed, he could have no other motive than that his name should go out of that Court with the credit or discredit that belonged to it; that his name should go down to posterity with credit; and from the part he had taken against the Gentleman at the bar, it must go down to posterity. He hoped his children would be able to say, their father had left them that public probity, which was far dearer to him than any other acquisition. He begged leave to say, that when he was discharging his public duty, he should endeavour to state the facts of the case as correctly as he could; and if he misstated them, he hoped to be corrected by the Jury, the Court, or any body else. He begged leave to observe, that the Gentleman that stood at the bar, endeavoured, as it struck him, to shew by the cross-examination of Mr. Adams, that he had very little connection with the Constitutional Society; that he had very little knowledge of that Society, and that he was still more a stranger to the proceedings of the London Corresponding Society, and to those of the country Societies. That was the tenor of this cross-examination of Mr. Adams. Being the prosecutor, he said, it was impossible for him not to know this case; he wished to state then, and begged it might be understood, that every word he uttered was a word uttered with caution, but at the same time, with that firmness which the execution of a public duty demanded of him. The greatest distress he felt in this case was, in being concerned in a prosecution against a Gentleman, undoubtedly of great learning and accomplishments. He hardly knew in what terms to convey it. This was a case of fraud against the public security and happiness, concealing itself under measures calculated for the purpose of preventing detection of the leader concerned, and placing third persons between the individual and danger. Unless he greatly mistook the nature of this business, there never was a case, in which any individual had placed so many persons under a misconception of what he meant, if he meant what his Counsel said he meant, than the Gentleman who sat at the Bar. If it should happen, that persons who were yet

in custody, and who had not yet been tried, had gone lengths to which the prisoner had not gone, if the charge of High Treason should be made out against them, he was persuaded that must remain as a considerable circumstance of regret to Mr. Tooke, to the last moment of life.

The law and constitution of England did not pretend to the excellencies of those systems on which the Rights of Man were founded. The constitution of Great Britain was for the government of man. It did not suppose that the King was perfect. It clothed his Majesty with councils to attend him in various ways; to give him perfection as far as was consistent with human nature, and as far as law could give a human being. He said the same thing with regard to the courts of justice. Courts might err; juries might commit mistakes; but what then? We had a great and glorious system on the whole; and, in a doubtful case, he had rather that five thousand guilty men should be acquitted, than that one man, upon whose case any twelve men could have a fair doubt, should be found guilty, and that the misery of his guilt should remain on their minds. If they should find the London Constitutional Society publishing libels every day: though they should find the gentleman at the bar employed in the same business; yet if these libels did not amount to an overt-act of High Treason, they would pay no attention to them. The charge against the prisoner was of a different nature; and it did not signify what Mr. Tooke had done, unless it was done in prosecution of that with which the present indictment charged him. With respect to the indictment itself, he had very little to say to the jury on the law of the case. He said he should state to them the law of Treason very shortly.—As they lived in an age of innovation, the law as he stated it, might be wrong; but the jury would always remember that they were to take neither the law nor the facts from the protestations of counsel, in whatever situation they stood. It was his duty to state the law, as he understood it, to the Court, and in the presence of the jury, that they might apply the facts of the case to the law. He said he should not go into this business at any length, because if the law was not to be taken at this day, upon the ground of adjudications and judicial decisions to be clear law, there was not one law in England upon which they could say their personal safety and their personal liberty was secure, or that one shilling they had was secure. The indictment went on this ground, that a conspiracy (he said he was stating the law of High Treason as laid down by Coke) to depose the King, was an overt-act of High Treason. Beyond all that, he said, that a conspiracy to levy war was High Treason, that is a conspiracy to levy direct war. For that position he cited Foster's Discourse upon High Treason.—He declared he was no advocate for making that High Treason.

son, which the 25 Edward III. said was not treason. It was equally necessary for the subject, that the crime of High Treason should be ascertained, as it was for the safety of the Crown that a law should exist for High Treason. According to Foster, a conspiracy to depose the King, or to imprison him, was an overt-act of High Treason within this branch of the statute, for according to that learned judge, between the prisons and graves of princes the distance was very small. The experience of modern times, he was assured, had not contradicted that observation. He protested he was not anxious about the verdict in this case. The gentleman at the bar professed that his sole object was a Parliamentary Reform; but whether that Reform was on the Duke of Richmond's plan, or on the moderate plan of Mr. Pitt, the Attorney General maintained, that no one action of Mr. Tooke's life, since March 1792, was consistent with his professions, except a conversation which he had with Mr. Francis. He contended that Mr. Tooke's intention to go in the stage coach, as described by Major Cartwright, to Hounslow, and then to get out was High Treason. *Non constat* that he could get out at Hounslow, when those who were with him intended to go to Windsor for Universal Suffrage. After they got him into the stage coach, they might carry him to Windsor against his will. The books of Mr. Paine and Mr. Barlow, were almost the only publications that attracted the notice and approbation of the London Constitutional Society. His learned friends, who were counsel for Mr. Tooke, had not dared to look at the proceedings of the London Corresponding Society of the 6th of August, 1792. They wished for a revolution; and though there might be a King in the country, yet they knew that the ultimate prospect which they had in view would soon follow in this country, as it did in France. The Attorney General here observed on the Addresses of the London Corresponding and Constitutional Societies to the National Convention of France, together with the Answer of the President. The gentleman at the bar knew, that previous to the year 1789, it was totally impossible that a Revolution could be brought about in this country, that was to depose the King. He knew well, that the means were not within their power to accomplish it. But he contended, that since March 1789, many, many, acts had been done by the London Constitutional Society, which, as jurymen, they must say did amount to acts of High Treason—to induce his Majesty's subjects to depose the King. He contended, that the King of Great Britain was bound, by his coronation oath, to govern according to the law of the land. His Majesty was bound, by oath, to resist every power that sought to compel him to govern otherwise than according to the laws. It must therefore be understood, that the King of this country ought

to resist, and, he had no doubt, would resist, such a power, because that would be acting according to his duty; and, in resisting that power, he must endanger, and might lose his life.

The Attorney General glanced very shortly at the transactions of the years 1780, 82, and 85, in which Mr. Tooke had a share. — He maintained that whatever might be the profession of all the Societies since that time, respecting a Parliamentary Reform, that in fact it was a mere colour, and that they meant no such thing; they had expressly agreed that Parliament was not to be applied to, that it could not be applied to, because it was incompetent to give the relief, even if they were desirous of giving it. The Plan of a Convention of the People, who were not to apply to Parliament, but to seek a remedy by their own power and their own strength, was set on foot so early as the 6th of August, 1793. Mr. Tooke avowed it as early as the year 1792.

The Attorney General next made a number of observations on Mr. Erskine's declaration, that he would call Hardy and several other witnesses to give evidence in this cause. Those witnesses had not been produced. Hardy, in particular, could have spoke to many important transactions in which Mr. Tooke had been supposed to have been concerned. Hardly any one member had been called who belonged either to the London Corresponding Society or the Society for Constitutional Information, except Major Cartwright, who was implicated in these transactions, between March 1792, and May 1792, when he went into the country.

The Attorney General next commented on Joel Barlow's letter of the 6th of October 1792. He said, the proceedings of these Societies, from January 1st, 1793, to the month of March of the same year, deserved the greatest attention of a Jury of the country. By Juries of the country the British Constitution lived, breathed, and had its being, and on that account Juries were entitled to great respect. Many letters that were sent from all quarters contained such reflections on aristocracy and monarchy, as plainly evinced the intentions of those Societies. A Convention was the only thing that would serve them: a Convention that was to usurp the power of Legislation, and all the great powers of Government.

That was to be the case when the people were good and courageous enough. They would then move forward in a great body at once, being formed into Societies from town to town, and from village to village, till they spread over the face of this sea-girt island. Then the Neros of the day would fly before their oppressed subjects, when their proceedings were to resemble the thunderings out of Sinai. If a Convention had met in England, it must, from the nature of

the thing, have acted by force. It could not have executed its purposes without force. The Legislature of the Country could not permit it to act but by force. It was a painful reflection to consider what an immense number of poor ignorant men had been misled, and had embarked in this plan of a Convention.

Mr. Attorney General here made some observations on the proceedings of the Society of the Friends of the People.—He next entered into a detail of the British Convention that met at Edinburgh, and observed that 177 delegates had assembled there from different Societies in Scotland; and those delegates, together with others from England, were supposed to represent 700,000 people, who were supposed to be the majority of the adults in the kingdom. His friends had asked him, whether the Government of England was to be overturned by 10l. the only sum that was found in the possession of the London Constitutional Society?—He said it was not by money that the French Revolution had been brought about, but by the physical strength of large numbers of men. He next adverted to the proceedings of the 20th of January 1794, and then to those of the 27th of March, 1794, when the project of a Convention to be held in England began, which was to usurp all the powers of the country. The last thing to which *Mr. Attorney General* directed the attention of the Court and Jury was, the proceedings of Chalk Farm, on the 14th of April last. He went through the whole mass of the evidence that had been advanced on the part of the prosecution, and endeavoured to shew, from the whole proceedings of these popular societies, though their professed object was a Reform in the Commons House of Parliament, that, in fact, their intention was to overturn the Government of this country, to depose the King, and to put him to death. He said, it was clear, from the whole of the evidence, that the Country Societies, and the London Corresponding Society were subservient to the London Constitutional Society, and that the London Constitutional Society might be considered as an engine in the hands of the gentleman at the bar. He was deeply concerned in all their proceedings. How many important papers had been corrected and interlined by him. The signature of Hardy also had been proved to be in his handwriting; and the particularity with which *Mr. Tooke* had described the different transactions of these societies was not the least remarkable circumstance that had attended these proceedings. His learned friend had said, if the prisoners had been guilty of High Treason, every member of these Societies were equally guilty, and that he must be a monster who would think of executing so many thousands. He had already observed, that many of the members of these Societies were ignorant, and had been misled; but that was not the

case with the gentleman at the bar. He could not well commit an act of High Treason without knowing it. Many others might. It might as well be said that many thousands were guilty of High Treason in the rebellion of 1715, and 1745; but they all knew that only a few of the ringleaders were executed, as an example to the many who had been misled by them. Upon the most mature consideration of the evidence given on the part of the Crown, notwithstanding the light manner in which it was treated by his learned Friends on the other side, he thought the charge in the indictment was made out. It was, however, for the Jury to say whether it was or was not. He said, he should be very happy, if any error could be discovered in his opinions which might be favorable to Mr. Tooke, but he could perceive no mistake he had made, either in the law or in the fact.

The Gentlemen of the Jury would recollect, that if they found this Gentleman guilty of one overt act of High Treason; if they found one overt act supported by what amounted to a manifestation of that mind which the statute of Edward III. required to be manifested by an open deed; the case then was made out against the Gentleman at the bar.

He said he had to apologize to them for having taken up so much of their time (three hours and a half.) He begged their attention to what had passed at Sheffield, and made a few observations respecting the pikes. He conceived it was not necessary that any possible weapon should have been prepared. If there was a purpose to bring about a National Convention of the people, and any one step taken to form that Convention which was to act by force, he apprehended the case was established. Having stated so much, he conceived that he had discharged his duty to the public to the best of his strength: and he entreated the Jury to let the Gentleman at the bar have the full benefit of his defence. From the situation in which he stood, he was Counsel, to a certain degree, for the prisoner as well as for the Crown. He said he might, perhaps, have mistaken the whole of this case, though he did not think he had mistaken, or mistated any one of the facts. Said he, Gentlemen, I am sure God Almighty will direct you a right verdict, and whatever that verdict is, may he grant that it may have a tendency to secure the peace of the country.

The Court being resumed, the Lord President began to sum up the evidence to the jury. The learned judge entered into a perspicuous explanation of the charge, as laid in the Indictment, and gave an abstract of the several counts which were laid as overt-acts, to prove the evil intent against his Majesty.

The indictment consisted of nine counts, which might be reduced to three kinds of overt-acts: there were four counts for assembling a Convention, three for a conspiracy, and two for levying war.

The learned judge observed, that it was his intention to go through the evidence, to state the points, and to examine how they bore upon the case under examination.

The first witness called, said the learned judge, was Thomas M'Lean, the messenger, who proved the seizing of certain papers, which are now produced.

To prove the hand-writing of the prisoner at the bar, they call William Woodfall, who states that he had frequently seen Mr. Tooke's hand-writing. A paper being shewn him, he says, he does not think the whole of it to be Mr. Tooke's hand-writing, but there were interlineations of Mr. Tooke's writing. On his cross-examination he admitted, that it was fifteen or seventeen years ago since he had seen the prisoner write; and upon this evidence, said the learned judge, rests the whole of the evidence respecting Mr. Tooke's writing, through the whole of the written evidence that has been produced.

Being examined as to the minutes of the 28th March, 1794, he says they are all in Mr. Tooke's writing.

The next witness called is Mr. Adams.

Having repeated the examination of this witness, in the same manner as given before, when Mr. Adams was examined, the learned judge observed, that he should find it necessary to go through the whole of the written evidence.

The learned judge here directed Mr. Shelton to read several pieces of written evidence relative to the approbation of the Constitutional Society of the writings of Mr. Paine; their resolutions relative to the printing and publishing those writings; the electing of St. Andre, Barrere, and Roland, as honorary members; and their resolutions relative to forming a Convention.

As these papers have been all detailed, and are to be found in the Report and Appendix, it is unnecessary to repeat them here: the chief part of the charge, as far as it is hitherto advanced, consisted in reading these extracts, with comments occasionally as they occurred.

Of the particular papers which were in Mr. Tooke's writing, there was one which was dated the 23d of March, in which, relative to the Sheffield resolutions, there were some words of Mr. Tooke's writing, and a particular resolution founded upon these resolutions was in Mr. Tooke's hand-writing, and a rough draft of the Corresponding Society, signed, Thomas Hardy, which also appeared to be in Mr. Tooke's hand-writing.

This circumstance, the learned judge observed, might possibly lead to an inference that Mr. Tooke might have been the founder of the Corresponding Society.

The last paper read, was the Address to the Jacobins, which being furnished, the learned judge observed, as he found he should not be able to conclude the charge in any reasonable hour, he should defer the remainder till to-morrow.

Adjourned at nine o'clock.

SIXTH DAY.

November 22.

The Court assembled at nine o'clock.

The Lord President remarked on some resolutions which were passed on the 18th of May, 1792, at the Crown and Anchor, when Mr. Tooke was present. After the remainder of almost all the written evidence was read to the jury, namely, addresses, letters, &c. His lordship commented on each, pointing out the evidence that arose in his opinion from each paper.

On the 3d of October, at a meeting at the Crown and Anchor, the same Society agreed to address the British nation. This address was read by Mr. Shelton. It enumerated various grievances, which they sought to redress, and among the rest *long speeches* in the House of Commons.

Gentlemen, said his lordship, this paper has been read, upon which great stress has been laid on the part of the prosecution. It is supposed by them to convey the first idea of a Convention, it is certainly inflammatory and libellous; but, although I have read it with great attention, I cannot trace the least vestige of a Convention. However exceptionable the expressions may be, it is for you to judge whether the criminality can be attached to them.

On the 6th of August, 1792, Mr. H. Tooke was present when a letter from the London Corresponding Society was read, proposing an Address to the French Convention, and desiring their co-operation.

Gentlemen, the whole of this letter demands your attentive consideration. It is an appeal to a foreign country, with whose interests they who prepare the Address, consider the interests of their own country at that time. It observes, that the people here are frowned upon, that Frenchmen are free, and that Britons are preparing to become so. It complains with acrimony of an aristocracy, which they say is the bane of every nation, and that the French had done wisely in expelling it from their bosom. They observe, that England is not Hanover, and that if the King of Great-Britain should forget

the distinction, they will not.—This is a dangerous allusion to the King's office.

On the 19th of November, 1792, Mr. Tooke was present, when a paper was discussed, in which some words are interlined, and which Mr. Woodfall has proved to be in Mr. Tooke's handwriting. There are some passages in it worthy of observation, particularly that which states that "Freedom, though an infant, with Herculean efforts, already sees the vipers, monarchy, and aristocracy, wreathing and intangling under its grasp: may peace and happiness attend its efforts." The date of this is a circumstance I would strongly recommend to your consideration.

The Lord President said, he felt it distressing, that from the order in which these papers had been read in evidence, and other unavoidable circumstances in the arrangement of them, they could not be traced in chronological order. This letter was from Stockport, a Society which seemed far advanced in Republicanism, and they want to know what the Corresponding Society purposes to do. The Stockport Society conceives that all the evil would be done away by a full and fair Representation of the Nation, and that it was in vain to hope for a redress of grievances if the House of C—— and the Bench of B—— retained their authority." This his Lordship observed was the first time a Convention was mentioned. Here a fit opportunity offered itself for the London Corresponding Society to have explained their intentions in such a manner, as not to be misunderstood. Instead of this the latter Society says, their sentiments are expressed in as strong terms as prudence will admit, yet plain enough they conceive to convince the public, that nothing but a Senate of the Nation would satisfy them.

The next evidence was a paper, found upon Adams, sent by the United Political Society at Norwich, to the Constitutional Society. Mr. Frost was ordered to prepare an answer to it, and on the 12th of April, when Mr. Tooke was not present. The letter was read, and Mr. Frost's answer was agreed to.

The letter from Norwich points out that a Reform in Parliament was not the sole purpose; the answer to this letter was by no means decisive. A Convention is hinted to be the object of the Society to preserve a *mixed* government, and obtain a *Restoration*, by extending the voice of Representation, and shortening the duration of Parliaments.

His Lordship went into a detail of the proceedings of the Scottish Convention; he also remarked on their adoption of the phrases of the French Convention, such as "the Hall of Liberty"—"the order of the Day"—and one man was invited to the honours of sitting. This affectation of the cant of the French Convention, ought not to influence beyond its

due bearing ; it might arise from vanity, it was certainly very silly. Mr. Tooke had written a circular letter to the different Societies, in order to raise a subscription to defray the expences of Mr. Sinclair, who was a Delegate from the Constitutional Society to the Scottish Convention.

His Lordship remarked on the whole of the evidence that appeared on all those papers, after which he began to sum up the parole evidence.

From the circular letter found in the possession of the Secretary to the Society at Norwich, it was stated, that the projected Convention was to meet in a peaceable manner. But how the *armed ruffians*, the Hanoverians and Hessians, were to be resisted without force, it was difficult to discover. The letter from the Society at Newcastle to the London Corresponding Society, stated, "The Hydra of Tyranny and Imposition will fall under the Guillotine of Truth and Reason." In reply, the London Society adopted that expression. This was the only remark his Lordship made on that correspondence.

The letter, dated 24 April, 1794, addressed to Mr. Hardy, on the subject of arming and acting against any attack the "barefaced aristocracy" of the present administration might command their newly-armed minions to make upon the Society. It did not appear in evidence, his Lordship remarked, that any considerable number of pikes had been made, nor did it appear they meant to make any particular use of them against the State. It was matter of conjecture, the purpose to which they were to have been applied. It was for the consideration of the Jury, whether they were fabricated for the support of the proposed Convention. This was the object contended for by the Crown ; but it would be improper to strain a point beyond its proper limits.

The resolutions intended to have been passed at Chalk Farm, proved to be in Martin's hand-writing, and in which he said he had made *Cyane* the principle ingredient, were read. One of those resolutions, whoever might have drawn them up, went directly to the calling of a Convention. This paper his Lordship dismissed with this single observation, that it did not contain one expression respecting a Reform in Parliament. The resolutions that were adopted at that meeting were violent in the extreme. They were introduced on that occasion by reading a letter to the Society of the Friends of the People, requesting them to send Delegates to a General Convention, to co-operate with them in obtaining a radical Reform of Parliament. The 5th of these resolutions was read. His lordship remarked, that it went the length of saying, that the social compact was dissolved, and that the people were driven to the necessity of an appeal to

their own laws, in conformity to the incontrovertible maxim, "The Safety of the People is the ONLY, and in cases of necessity, the SUPREME law. These resolutions, if they fell short of a direct averment of rebellion, they came very near it indeed. In justice to the prisoner, it ought to be remarked, that the only knowledge he appeared to have of these proceedings was, that he received an intimation of the meeting.

The toasts annexed to the resolutions were highly reprehensible, but they were too loose to affect the prisoner. The evidence of Broomhead and Widdison was not very material further than it corroborated the documents. The most material observation that occurred to his lordship on the evidence of Mr. Sharp, was a fact in the cross-examination. At the house of a common friend, that gentleman in a conversation with the prisoner, remarked that a letter of his to Mr. Tooke, had been intercepted by government.

The Court here adjourned for an hour.

On the resumption of the Court at five o'clock, the Lord President proceeded to sum up the evidence on the part of the prisoner. His lordship remarked, that the substance of this evidence was to prove that Mr. Tooke instituted the Constitutional Society for the purpose of restoring the lost rights of the people by a parliamentary reform, and that from the general tenour of his conduct, he was an inflexible advocate for the Constitution, in King, Lords, and Commons, as by law established. He was likewise proved to be averse to the plan of universal suffrage and active citizenship, that he was remarkably addicted to literary pursuits for the attainment of useful knowledge, and by no means likely to interrupt the peace of Society.

The last piece of evidence his Lordship stated, that had been produced on the part of the prisoner, was the record of Mr. Hardy's acquittal; and with this view, that no acts of Hardy in his individual capacity, might attach criminality on the prisoner. That man had been pronounced, Not Guilty, by a Jury of his country, consequently the presumption was, that he stood innocent with respect to those parts of his conduct.

His Lordship then proceeded to state, that no entanglement or misapprehension, could arise in point of law, or in the application of the law to the specific facts. It never had been denied, that a jury could not find on the presumption of law, that the man who deposed or conspired to depose the king, compassed and imagined his death. The case before the jury assumed the character of a case depending wholly on matter of fact, and were it not for the numerous attendance of professional gentlemen, he should leave the case on the evidence.

Adverting to a distinction, which had been made by Mr.

Gibbs, between the common and statute law: that learned gentleman had asserted that "If such a question as the present, was cognizable at Common Law, the expositions of judges, would be conclusive, but in cases of High Treason, the crime was declared, irrefutably, and clearly defined by act of parliament." This observation, his lordship admitted, was strictly correct, as far as it applied to the levying of war, which under these circumstances became a question of Law. Nothing in his apprehension was more clearly established, than the explanation of a statute, was vested in the Bench, and that the application of the law to the fact was uniformly for the consideration of the Court, and Jury, who were ultimately to decide on all the circumstances of the case. To the other parts of the learned Counsel's speech, he had with infinite satisfaction, and would venture to say, that no gentleman assigned under similar circumstances, ever acquitted himself in a more masterly manner. The case before the Jury, as he stated before, was a case which depended on facts. In the course of his statement of it, he trusted, that the recollection of the Jury would enable him to supply any omission, and to correct any errors he might fall into from the pressure of fatigue.

With respect to the evidence before the jury it might be reduced to two points.—

1. Was a Convention actually in contemplation, and with what views was it to be assembled?
2. Did the prisoner at the bar concur and participate in that project, and what was his intention?

These might, in his lordships opinion, be reduced into one question.

Has the prisoner been concerned in a conspiracy to establish a National Convention for the purpose of usurping the functions of the legislature?

Should the Jury decide in the affirmative on this question, it amounted to a deposition of the king. Any plan devised by any body of men, for assuming the power of the country, or taking upon them legislative authority in opposition to the Government, was a deposing of the King.

That it was in the contemplation of these Societies to call a Convention, was a fact which appeared to be proved in evidence, and that Mr. Tooke was active in procuring that Convention to be assembled, was also a fact which, he believed would be conceded by the prisoner himself; but the question for the Jury, was, the *object* of this projected Convention. There was, in this case, a chain of evidence on which the Jury might form their judgments, and if a single overt-act of the description he had before stated was *proved* to their satisfaction, that fact was considered as the consummation of the crime charged in the indictment.

On the part of the Crown, it had been contended, that a Reform in the Commons House of Parliament was a mere *pretext*, and that the expressions, "radical Reform," and "full and free Representation," were ambiguous and equivocal, and calculated for deception and imposition. The Counsel assigned the Prisoner denied this fact, and contended, that these expressions meant a Reform in the Commons House of Parliament, without any reference to the other branches of the Constitution. His Lordship had frequently mentioned, in the course of these trials, that the context ought to be taken, and if the expressions would admit of two constructions, the one which favoured the Prisoner ought to be adopted. In a case so important as the present, nice verbal distinctions and grammatical criticism, ought not to influence the judgment of the Jury. The words might have been used inadvertently, and the intention might be more safely and satisfactorily collected from the general tenour of the party's conduct. In order to ascertain this point, the Public Accusers had given the Court a reference to the two Societies in London, with their different ramifications, in the different parts of *England* and *Scotland*, and likewise to their correspondents in *France*.

The Constitutional Society appeared to have been instituted some years back by Mr. Tooke. The London Corresponding Society was likewise created, or at least modified by the same gentleman, in April 1792. It professed for its object a Parliamentary Reform, on the plan laid down by the Duke of Richmond. A great deal of violence and irritation, distinguished proceedings which rendered this representation rather suspicious. An attempt had been made to prove, that their professed object was a mere pretext to conceal their traitorous designs. In this the Prosecutors had not succeeded, the Jury were not to decide on inference, conjecture, or probabilities, but on direct and manifest proofs. To his Lordship, there appeared a material distinction between the proceedings of these two Societies. The one for Constitutional Information, he considered as a mere club, whose proceedings, when compared with those of the other were temperate and innocent. The London Corresponding Society was of a very different complexion indeed. It was formed on a very dangerous questionable principle. It seemed to be hourly increasing and extending by divisions and subdivisions for the propagation of sedition, and the acquisition of proselytes. It was certainly a political monster of a most portentous appearance, and perhaps had no type or parallel in the annals of history. The only combination that had an affinity to it was the Club of Jacobins in France. This body, from its hostility to all order, had been recently checked, if not wholly suppressed. It was a sort of *imperium in imperio*, totally incompatible with

Government of the Country, such as it is.

Here his Lordship entered into a minute detail of the occurrences in the Societies from the spring of 1792, to the apprehension of the prisoners. In this period, the jury would be enabled to collect the intention from the general tenour of their conduct jointly and severally. In their proceedings, they gave a decided and unqualified approbation of Mr. Paine and Mr. Barlow's works and principles, which were directly hostile to the constitutional establishment of this country.—The prisoner could not fairly be made responsible for the acts of the aggregate body, farther than he appeared individually to be concerned in promoting their measures. These proceedings, however, when coupled with the presentation of the address from the Constitutional Society, by their agents to the National Convention of France. The material circumstance in this transaction, was in the expression, "We hope the time will soon arrive, when a Convention in England, would have the felicity of receiving addresses from the National Convention of France." Than this declaration, nothing could more decidedly prove an intention to assemble a Convention in this country. It was not in the power of sophistry to explain away the import of these words. This conduct taken with an assemblage of other circumstances at that period, might be considered as acts in furtherance of the general plan, but he was inclined to admit that they had no direct or immediate reference to it. It was notorious, however, that a Convention was held at Edinburgh early in 1792, after two adjournments they met again in November, 1793. At the instance of the London Delegates they assembled again in the same month. What the object of this Convention was, might probably be ascertained from a review of their proceedings. They assumed the title of the British Convention of the People, they adopted French phrases, and assimilated their proceedings to those of the Convention of France. Their committees of finance &c. the proposition of petitioning on the subject of Parliamentary Reform. The place of meeting on account of a variety of local circumstances, the solemnity of their proceedings, the adoption of French Manners, and their legislating for their constituents, were all circumstances for the jury to declare, whether the proceedings of that assembly were only *mummery*, or whether the members were not active in furthering a plan for the subversion of the Constitution. Happily for the peace of the country, this Convention was dispersed. The proceedings before the High Court of judiciary, and the subsequent sentences of the Delegates produced much irritation in the Societies. Great pains were taken to aggravate the sufferings complained of. The resolution at the Globe, showed pretty clearly the sentiments of the Society respecting the sense of the legislature on their petition. They declared

they could not gather grapes off thorns, nor figs of thistles and it was not from their plunderers, enemies, and oppressors they expected to obtain redress.

In this state of things, a project of a Convention was set on foot, and measures were actually taken to carry it into effect. It was for the Jury to say, whether this meeting was in imitation of the Convention in France, which had successfully combatted and superseded the government. Any step taken to effect a similar disaster in this country, was an act of High Treason in compassing and imagining the death of the King. Next came the grand consideration,—Was the object Parliamentary Reform in the House of Commons? It was not sufficient to say, they must have meant more. Conjecture was no ground to infer guilt or conviction. The Jury must be convinced, that their whole object was to call a Convention, for the purposes charged, and on a footing with those of France.

The Lord President having concluded his comments on the evidence on the part of the Crown, proceeded to observe upon that adduced on the part of the Prisoner. From the concurring testimony of many respectable witnesses, Mr. Tooke was represented as quite the reverse, of a man that entertained Republican principles. He was described as loyal to the King, friendly to the hereditary Aristocracy of the Country, and hostile to the abuses in the Commons House of Parliament, on account of its undue influence over the other branches of the legislature.

The prisoner had offered evidence to rebut the charge, and likewise to his general habits. He was much addicted to study, and he had even expressed a wish that an act of Parliament were passed to compel him to reside within his own grounds. A man of his habits, of his principles, and of his infirmities, we should suppose, would be the last to excite insurrection and rebellion. The reply to his defence, strong as it was, even with those habits, principles, and under the pressure of those infirmities, the gentleman at the bar was found to be intimately connected and interfering in the most flagitious papers and addresses that can be imagined.

It was distressing to see a gentleman with his capacious mind, his cultivated genius, and possessing those talents which might benefit the State, under accusation of High Treason. With these observations the learned Lord consigned the decision to the Jury, whose province it was to give a true verdict according to the evidence, and he doubted not that they would pronounce such a one as would be satisfactory to their own consciences, and sure he was it would be satisfactory to the country.

The Jury having withdrawn, in the space of *nine* minutes, returned with a verdict, **NOT GUILTY.**

THE
TRIAL AT LARGE
OF
JOHN THELWALL.

FOR
HIGH TREASON;

Before the SPECIAL COMMISSION,

AT THE

Sessions-House in the OLD-BAILEY :-

BEGAN

On *Monday, December 1,* and continued until
Friday 5, 1794.

With the Whole Proceedings of the ATTORNEY and
SOLICITOR GENERAL on the Part of the Crown ;

AND

Mr. ERSKINE and Mr. GIBBS for the Prisoner.

BY JOHN NEWTON, Esq.

LONDON:

SOLD BY H. D. SYMONDS, NO. 20, PATERNOSTER-RROW.

[Price 1s.]



ACQUITTAL OF

BONNEY, KYDD, JOYCE and HOLCROFT.

Monday, December 1.

THE Court met at nine o'clock.

The Attorney General desired that John Augustus Bonney, Stewart Kydd, Jeremiah Joyce, and Thomas Holcroft should be brought up, when those gentlemen were put to the Bar.

The following were then sworn as the Jury, to whom the Prisoners, in the usual form were given in custody.

THOMAS DIGBY, Foreman.

J. BATSON.	MARK HUDSON.
ALEXANDER TROTTER.	HENRY BULLOCK.
ROBERT MELLISH.	JOHN POWSEY.
WILLIAM HARWOOD.	HUGH RONALDS.
JAMES HAYGARTH.	THOMAS HARRISON.
ROBERT LEWIS.	

The Attorney General proceeded next to address the Jury to the following effect.

Gentlemen of the Jury,

“ The last time I had the honour of attending in my public capacity, in this Court, I addressed the Jury on the grounds of the prosecution, and the evidence which I had to produce against a prisoner in a similar situation of those gentlemen. That Jury in the exercise of its Constitutional Functions found the accused Not Guilty.

“ I do not presume to judge of their verdict; I take it for granted they did their duty. After his acquittal it became my duty to consider what I ought to do, consistently with my duty to the Public and the Gentlemen at your Bar, who are part of that Public. After mature consideration and consultation with other gentlemen, I have thought it my duty, as I have no other evidence against them than that which I produced against the last gentleman, upon which he was acquitted, to submit these persons for acquittal. I shall not therefore trouble you with any evidence.”

Chief Justice. Gentlemen of the Jury, as there has been no evidence called on the part of the Crown, you will of course find the prisoners not guilty.

The Jury immediately pronounced a verdict not guilty—and Messrs. Bonney, Kydd, and Joyce, retired.

Mr. Holcroft. Gentlemen of the Jury—

Chief Justice. You have been acquitted, and after such an ac-

quittal, Mr. Holcroft, I do not see that there is great room afforded for observation. I shou'd think it the best way to follow the example of those who have just retired.

Mr. Holcroft. Every man, my Lord, must act according to the best of his judgment; my judgment tells me that it is my duty to address a few words to the Court, thus openly in the face of my country, upon the hardships I have so undeservedly suffered.

Chief Justice. You have no right to address a word, Sir, to the Jury, after being acquitted in the manner you have just been; but I do not wish to hold you to that right, conduct yourself properly, and I shall have no wish to stop you.

Mr. Holcroft. My Lord, I have well considered what I have to say. Whether my judgment and that of your Lordship's will agree I cannot foreknow. What I have to say proceeds from the dictates of an honest and well-intentioned mind, that will not swerve in the least from the strictest line of duty.

Chief Justice. These dictates must be properly timed; it is quite out of the question to take up the time of the Court in this manner, and obstruct the public business.

Mr. Holcroft. I will not detain the Court more than half an hour.

Chief Justice. Half an hour! that is quite out of the question.

Mr. Holcroft. After having suffered the injustice and cruelty which I think I have suffered.

Chief Justice. You have been dealt with most honourably by the Attorney General. You ought not to complain of injustice, because, in doing so, you accuse your Country, who have put you on your trial. You can have no extraordinary hardship to complain of, you voluntarily brought yourself into custody, and have been treated mildly and honourable by the Attorney General. You must withdraw, Sir.

[Here was a general cry of Withdraw.]

Mr. Holcroft. As it seems to be the wish of the Court, I shall withdraw. If I have been wrong I am sorry that I have had not more understanding. I always determine to demean myself so as to have the good opinion of mankind. It is not my desire or my wish to be considered as an obstinate or troublesome man. I had something to say of importance to my Country, but as I am precluded from delivering my sentiments on the subject, I shall take some other means of publishing what I think of the business.

Chief Justice. You had better take care, sir, you may bring yourself into another scrape, after having been extricated from this.

Mr. Holcroft. I am very willing to suffer in what I think right.

(*Mr. Holcroft then retired.*)

THE TRIAL OF
JOHN THELWALL.

FIRST DAY.

Monday, December 1.

MR. THELWALL was put to the bar; when he was desired to challenge the Jurors as they came to the book to be sworn, and before they were sworn he should be heard. He said, he referred that to his Counsel.

The whole pannel of Jurors, the same as in the case of Hardy and Tooke, were first called over, and afterwards the defaulters.

Those who attended were then called a second time, when the Counsel on both sides had an opportunity of challenging.

Names of the Jurors appointed to try Mr. Thelwall.

ADAM STEINMETZ,	ANDREW BURT,
J. PAINE,	J. STEVENS,
J. MERCER,	JONATHAN EADE,
RICHARD CARTER,	G. AYLWARD,
NAT. STONARD,	ED. HILL,
JOS. NICOLL,	JOS. AINSLIE.

Mr. Percival opened the pleadings.

Mr. Serjeant Adair rose, at twelve o'clock, to open this case, on the part of the prosecution. He observed, that his Majesty's Attorney and Solicitor General, having with great abilities gone through that laborious and important duty imposed on them, by the situation which they so honourably filled, and having laid before the Court the two first cases on that indictment, it fell, he said, to his share, however unequal to the task, to state to the Gentlemen of the Jury the nature and circumstances of the charge, upon which it would be their duty to decide. Before he entered

into the particular circumstances of the case, he was aware, that after what had already passed, after the decision of the two former Juries upon the same indictment, after what had passed in their presence that very morning, he might be asked in the outset, why he did not spare them and himself the trouble of entering into the particulars of this case. After what had passed in Court that morning, when the Attorney General had conducted himself with that candour and honour, with that respect to a Court and Jury of his country, and with that tenderness and regard to the liberty of his fellow subjects, which, in his opinion, had marked his character, had so honourably distinguished his conduct, he might be asked, why he was not inclined to follow so honourable an example. Happy should he have been to have imitated such an example, could he have done it, in this case, consistently with his duty. He thought he could give an answer to the question, and it must be a satisfactory answer. He declared, that example had no reference whatever to the case which it was his duty to lay before them. When he made that declaration, he would explain to them the reasons, and then it would be for them to decide. There were two questions of fact comprised, not only in this, but in every other indictment. The one was whether the crime described in the indictment was committed at all. The existence of the crime was the first question. If that was not ascertained, there was an end of the charge altogether. When its existence was proved, the next question was, by whom that crime had been perpetrated; and whether there was satisfactory evidence to bring it home to the prisoner at the bar. The Jury would find it very material for their attention throughout this whole enquiry, to keep those questions distinct in their minds. It was not more material for the purpose of enquiry for the public, that it was in order to do justice to the prisoner. For there was no ground to enquire into the conduct of the prisoner, unless the existence of the offence was distinctly proved; and he should be the last man in the world, from the general existence of the crime, to draw any inferences injurious to the prisoner, except so far as he was implicated by clear and satisfactory evidence, in the crime described in the indictment. They would consider, that though the Gentleman at the bar was comprised with many others in the same indictment, yet the question upon the case of each of them was in its nature, and must be as perfectly distinct

as if it had been brought before them on different and separate charges. The existence of the offence, with respect to all of them, was necessary to be proved; but the application of the evidence to each particular prisoner, formed a case as distinct in point of justice and reason, as any question could be from another. He said, he was far from being sorry, that in this case, he had the honour of addressing some of those who had been Jurors on a former trial. He was not sorry for it, because the diligent attention, and the strict propriety with which they went through that laborious, painful, and important duty, which their situation called upon them to discharge, satisfied his mind, and he believed the mind of every other man, that they had an anxious desire to discharge that duty with integrity, fidelity, and impartiality, between the public and the prisoner. The Gentlemen who were upon the first Jury knew the motives that influenced their minds in giving their verdict. He was persuaded, and he spoke with confidence, that when they had heard the evidence, it would be his duty to lay before them, the ground on which their verdict would go, would have no application to the first case. He could state that with confidence, for a variety of reasons. In the first place, he had the opinion of the Court, that the facts alleged in the indictment, if clearly and satisfactorily proved, were sufficient in point of law, to support the charge of High Treason. Had it been otherwise, there would, long ago, have been an end to the proceedings, and Juries would not have been kept from day to day, he had almost said for weeks, from their wives and families, in order to decide that which they had decided. He was confident, that the evidence he was possessed of, was such as could not possibly leave a doubt of the existence of such a conspiracy as that stated in the indictment, and therefore it was, that, whatever he might feel of the motives of the former Jury, they were motives that applied wholly to that prisoner, and did not apply to this prisoner.

Before he entered into the particulars of the evidence, it would be necessary, perhaps, to call their attention a little more particularly to the nature of the charge. The charge was that of the highest offence which the law knew. The law of this country, on the one hand, had wisely provided for the security and protection of that government under which we lived, and which secured to us, peace, happiness,

tranquility, life, and liberty; while, on the other hand, the proceedings for the prisoner were, of all others the most favourable. The charge was the compassing the death of the King.

Here the learned Serjeant went into the statute of 25 Edward III. pointed out the distinct heads of High Treason, as enumerated in the statute, and observed, that the present charge must be brought under some one or other of these species. The overt-acts, by which were to be understood the means of accomplishing the end, were as various and extensive as the different minds of men; and therefore it was absolutely impossible to describe them in any positive statute. To convict a man of High Treason, it was not necessary that he should have a direct and immediate purpose of taking away the natural life of the King. It was a sufficient overt-act of compassing the death of the King to do any act, which directly tended to restrain the King of his personal liberty, to deprive him against his will and consent, of his Royal State and Authority, or, in the words of the indictment, to depose him from his Royal State, even if it were possible to be for the direct purpose of protecting the life of the King. To restrain him of his liberty, and to oblige him to exercise, under compulsion, his just and lawful authority, would amount to High Treason, in compassing the King's death. He should not, after the long discussions that had taken place, waste his own strength, or their attention, in enlarging upon the subject. If he had mistaken the law, he would afterwards be set right by the Court.

The learned Serjeant next considered the nature of overt-acts. There were nine of them in the present indictment, and the formal proof of any one of them was sufficient to support the charge of High Treason. In favour of the subject, it was necessary that indictments for High Treason should be more specific than any other indictments. It was sufficient in all indictments for felony, to describe the general nature of the offence charged. But in High Treason, it was also necessary to state the overt-acts by which that charge was to be supported. And he would venture to say, that no indictment for High Treason was good, without stating the overt-acts: but such an indictment ought to be quashed, and the time of the jury ought not to be taken up in trying an indictment for High Treason, if the overt-acts stated, even though proved, did not support the species of

treason described. All the overt-acts stated in the present indictment, were charged to be done for the purpose of overturning the established Government of the Kingdom, and to depose the King from his royal authority.

The first overt-act charged was, that this was to be done through the medium of a General Convention of the people. Was it possible to overturn the rule and government of the Kingdom, without deposing the King. The first of these allegations, therefore, was only necessary. The last was mere surplusage.

He observed, that four of the prisoners had that morning been acquitted, he had almost said by the consent, or, more properly speaking, by the forbearance of the Attorney General. The time when the Attorney General did that honourable act, was also to be considered. It was done at a time when its primary object was to prevent those persons themselves from suffering one iota more of severity, or one moment of severity more than public justice required. But their being acquitted at that time, gave the prisoner at the bar a most important advantage, in being now able to call upon them as witnesses, who were formerly charged as accomplices of his crimes.

The jury would find, that the general complexion of the evidence, was this, that a number of Societies, acting by regular and established correspondence, communicated with each other, and acted under the guidance and direction of the two principal Societies in this metropolis, of one of which the prisoner at the bar was one of the most active members, for the express purpose of carrying into effect their visionary project of a Reform, not by any application to Parliament, but by their own authority. They intended to reform those abuses which they fancied to exist, not by the laws of the country, nor by the legislature of the country, but by their own laws. It would be incumbent on those on the part of the prosecution, to shew, that this was the real, undoubted object, which the leaders of those Societies had in their minds. From some parts of the evidence, it appeared to have been their professed purpose. Though it was but seldom men acted so openly in the commission of crimes, as to say we mean to depose the King, it is our intention to subvert the constitution of the country, &c.—These were professions but seldom made; but those who had such intentions generally concealed them, and wished

the world to believe from their professions, that they acted from different motives. To stop the progress of these Societies required the interposition of Government, and the strong hand of the law, for the protection of Government, which had been handed down to us from our ancestors, and of that constitution which had secured to us, wealth, prosperity, and happiness. They felt they had enjoyed all those blessings, in an eminent degree, as subjects of the Government of England. All good men, therefore, and he hoped there was a great majority in the nation of that description, would set their faces against all such attempts.

Men engaged in this desperate business, with some colourable object or pretences which might lead others, less wicked than themselves, to co-operate with them to a certain point, in pursuance of their secret purposes, and without being conscious of their object. It was necessary for them to have some plausible pretext to elude the attention of government, and the punishment of the laws. It was also necessary to elude the enquiry of every description of men, who, at first, would shudder at the name of High Treason. But they pointed to another object, making their agents subservient to their own ends, and concealing from them their real designs, till they had gone too deep to retract. That was the way in which these designs were carried on. Those persons, in acting in defiance of the Parliament, professed an intention to Reform the Commons House of Parliament; and there was no human government that did not need correction and reform; and if opinions on that subject were well digested, and conveyed through those channels which the law of the country pointed out, they might be meritorious. That might be the case, if opinions were delivered in a respectful manner, and in obedience to the law. Whether a Reform in the House of Commons was or was not necessary, he should not then discuss. But whether that was a wise or foolish measure; whether it was right or wrong; he would venture to affirm, that every attempt to bring that about, otherwise than by those holding the government of the country, without the authority, and against the will of Parliament, was High Treason by the law of England. Was the English Constitution—Was that glorious fabric that had been growing up, and maturing nearer and nearer to perfection (though no human institution could ever attain it) by the accumulated wisdom and experience of ages, to be overturned by the speculations of modern philosophers? Was it to subverted, be-

cause the London Corresponding Society had thought it necessary it should, and because they had taken the means to do it? It was for the Jury to determine, whether they were ready to adopt modern plans of Reform, at the risk of the lives, liberties, and property of the millions of inhabitants of this happy island? Would they wish to plunge themselves and their country into the miserable condition of a neighbouring nation, which could not be read without horror, and of the truth of which posterity would doubt?

No man ever attacked the King without some fair professions about grievances, &c. But in stating this case, he thought he could prove to them by evidence, that would leave no doubt upon their minds, that however fair the professions of these Societies were, although their professed object was a Parliamentary Reform, that no such thing was the secret purpose of the heart of the prisoner at the bar. But how were the secret purposes of men's hearts to be discovered? Not by the professions they made, not by the pretexts they held out to the ignorant and unwary; but by their own acts, coupled with their declarations, and by comparing their declarations at one time, with their declarations at another. A man's declarations ought to be construed in a manner most favourable to himself, yet he by no means admitted that they were to be so construed, if they contradicted other declarations made at the same time. He was inclined, in all cases that were really doubtful, to go on the side of mercy; but he could never conceive it to be the duty of a Jury to throw away their own understandings, to presume every thing contrary to the fact, contrary to probability, and to common sense, in order to get rid of a charge which affected the life of a fellow creature. They ought to weigh the charge fairly, with favour to the prisoner, but at the same time with some attention to the interests of the public. The decision of a Jury on such a question was very important; it was a question in which their consciences were deeply concerned, it was a question in which their consciences, directing the application they could make of their own understandings, ought to guide them in the right way, in which they should be equally indifferent to the power of the Crown, or the applause of a mob. They should look into their own hearts and ask them—Are we, or are we not in possession of incontrovertible facts? Is it not beyond a reasonable doubt, that the party is guilty of the crime imputed to him? This, in

all cases, is the business of Juries, who are anxious to discharge their duty faithfully and conscientiously.

There were two points with respect to these Societies—their real object and their professed object. Their professed object was a Parliamentary Reform, as expressed in their own words, by all legal and constitutional means for effecting this, or any other Reform: it must be done by the law and government of the country. If it was done through any other Channel than the King, Lords, and Commons, it was effected by illegal and unconstitutional means. They said, in so many words, it was to be brought about by their own authority, and therefore by illegal means, which might be dangerous to the public, and fatal to themselves. Their real object was, that which was charged in the indictment; from the nature of the evidence, he should undertake to satisfy them of the truth of the charge, by evidence, both affirmative and negative. He might content himself with shewing them what was the intention of the prisoner; but he should go farther, and shew them what was not his intention. He should shew them his intentions were to subvert the Government of the kingdom, and that his intention was not to produce a Reform by legal and constitutional means.

He said, he should state to the Jury a little more particularly, the nature of that Society, of which he should hereafter prove the prisoner was a most active and leading member, the nature of that institution, and the connection it had with other Societies of a similar description, in different parts of the kingdom.

The learned Serjeant here went into a minute history of the London Corresponding Society, shewed how admirably it was formed for eluding the observations and suspicions of Government, till it became extremely formidable. The time too at which it was formed was extremely material for the consideration of the Jury. It was at a time, the most critical and the most dangerous to every established Government, that ever occurred in the history of the World: for it was instituted at a time of a progressive Revolution in the neighbouring kingdom of France; a Revolution, every step of which, beyond the first, had been marked with characters of blood and desolation; and this Society spread itself on the very model of those Societies in France, which had been the principal instruments of that Revolution; and that had acted a principal part in those shocking scenes with

which it was strongly marked. It was formed on the principle of the Jacobin Club, with its affiliated Societies; though it was neither so powerful nor so numerous. Those Societies opened a correspondence with France, first by addressing the Jacobins, and then the Convention- What they had to do with a Parliamentary Reform in England, the Gentlemen of the Jury would decide. They shewed the strongest inclination to receive into their arms, the persons in that country, who were stained with blood.

One of the first objects of those Societies was, to circulate with a degree of industry unprecedented, a number of different publications, which would form a material part for their consideration. Their professed object in this was to enlighten the minds of their countrymen, to remove what they called their prejudices, and to impress on them true ideas and notions of the nature of Government and their own rights. They could never have circulated those books unless the doctrines and principles contained in them were such as they thought fit to be adopted. They could not possibly state any other view they had in the circulation of those publications, but that their principles should be adopted by the people, for the purpose of enlightening their minds.

This idea was entertained among them so early as May 4th, 1792. A letter of that date was sent from the Societies at Norwich, to the London Constitutional Society, stating, Thomas Paine and Joel Barlowe, as their Literary Representatives. The learned Serjeant made a very able comment on that letter. He also alluded to other letters, from which it appeared, that the works of these two writers had been adopted and approved of by all the Societies in town and country; and that some of the Societies had entered into a subscription to support Paine against the prosecution that was commenced against his Second Part of the Rights of Man. He hoped it would not be considered as uncandid in him, to desire the Jury to judge of the principles and views of those different Societies from these works. He said, he should take the liberty of reading a few passages from the second Part of the Rights of Man, to shew what were the objects and principles inculcated in it. It was there said, that all the governments that had hitherto subsisted in the world particularly the Governments now established in Europe, and more especially the government of England, had been all founded on false principles, not answering the true ends of

society, and all of them inconsistent and incompatible with the Rights of Man. With respect to this country, in particular, he laughed at the idea of our having any Constitution at all. They had been all in delusion; and it had not been till the present time they had made that discovery; and that which had been the boast of this country, was a mere dream. The English Constitution, by which this little island had been raised to be equal to a great country; by which we had been happy, and not in name, but in fact, had been the object of envy and admiration to all surrounding nations; by which we had lived, and had been protected at once in our personal safety, in our property, in our domestic happiness, and above all in our liberty. That though it has been felt for ages, that these are the substantial blessings of this Constitution; yet, according to Mr. Paine, we were totally mistaken, and we had no Constitution at all. His next principle was, that no Constitution could exist where there were either Hereditary Governors, or Hereditary Legislators. In order to have a Constitution, we must take away the King and the House of Lords. He was so far from recommending a Parliamentary Reform, that he said it was merely nugatory. It was all nonsense. The Government of this country could not be expected to make that Reform; that they could not do it; that they had not power to do it, and that no body could do it, but the people themselves. The learned Serjeant next read a number of passages from the second part of the Rights of Man, to confirm the observations he laid down. When he had finished them, he said, if he were to read all the passages to that effect, he must read through the whole of the book.

He said there was one favourite idea that went through all these publications, and that was, that the expence of the Monarchy of this country was calculated at a million sterling a year. That however was an impudent falsehood within the knowledge of the writer, and of every body except the ignorant, on whom only it was calculated to make any impression. Out of the million, the establishment of Ambassadors abroad, and the judicial establishments at home, &c. every expence incident to the Government of the State, was paid, the expenditure of the Army and Navy excepted.

He next considered the marks of Joel Barlow, and first his letter addressed to the National Convention, which had been approved by all the Societies, and in which he encourages them to depose, and of course to murder their innocent and

defenceless Prince; and to vest all the powers of government in the people. He next read a long passage from his book on Privileged Orders, and shewed that publication was equally hostile to the Government and Constitution of this Country.

Having given this general account of the theoretical opinions and principles of these Societies, he next compared these opinions with their practices, and considered how far their conduct and their principles accorded. To judge of their principles by their conduct, he said, was the most favourable, the most liberal mode of judging of them. It would appear from the proceedings of these Societies, not what was, but what was not the object of their pursuits. The Jury would find there was a period, not very long subsequent to the institution of the London Corresponding Society, when that Society, and all the others with which it corresponded, laid it down as a principle, that all applications to Parliament, for the object which they professed to be the sole object of their institution, were perfectly nugatory and fruitless; that they had no expectations of success, and therefore resolved not to make any more applications.

He should shew, that the measure was adopted in 1792, when their professed object was to obtain a Parliamentary Reform by legal and constitutional means. What would have been their conduct, if that had been their object, and the sole object of their institution. Must they not have immediately, with however much reluctance, have resolved to give up that object and give up their Society. But so far was that from being their conduct, that from the moment they were convened, all application to Parliament to bring about that measure was in vain. From that moment, instead of breaking up their Societies, they became ten times more active and zealous than they were before. Was it not then plain what their real object was? They held forth a colourable object. They held it forth as an object to captivate the feelings of better men than themselves, in order to draw into one general vortex all those of every description, who were friends to Parliamentary reform from reason and principle. In order to shew that the conduct and principles of these Societies agreed, he said, he should produce to them a piece of evidence of very considerable importance, and which went to the very object he had been pointing out to view. If their object was a Parliamentary Reform, what had the Jacobin Club at Paris to do with the means that

were to be employed for that purpose? What had the National Convention of France to do with it?

Serjeant Adair next animadverted upon the intercourse maintained with France, which was so little necessary to the reputed, and so indispensable to the real purposes of these Societies. Not only was this correspondence carried on after the ancient constitution of France had been subverted, but after the Sovereign was deposed, and his murder designed. On the 21st of September, 1792, the Corresponding Society first declared their intention of addressing the National Convention. A distinct and separate address was not reckoned a sufficient testimony of the general joy. Their industry in this respect, corresponded with the magnitude of the objects which they had in contemplation. After having obtained the approbation of the Constitutional Society, on the 10th, 15th, and 19th, of October, they wrote to the other Societies, proposing jointly to address the National Convention. And what was the nature of this address? It abounds in general professions of benevolence; but it is to be observed, it states the French cause to be ultimately blended with their own. Good God! what must be their ideas of human happiness; if, after the period when France had been deluged with blood, they would call the abettors of such a system, champions of liberty. What has the destruction of Aristocracy to do with reform in the House of Commons? By hailing them upon such an event, do not they adopt the principles of Mr. Paine, and implicitly acknowledge the House of Lords to be a supernumerary branch of the English Legislature? And how could a tripple alliance between France, America, and Great Britain take place, without deposing our King? On the 19th of October the Corresponding Society appointed a committee to concur with the Constitutional Society, in framing an Address, which was formed on the 9th of November following—an address which was not only subversive of the established principles of the British Constitution, but of all order and good government. In it they approve of all the writings of Barlow, sanctioning the proceedings of the Convention, and join with the Jacobin interest in its brutal exultations over the mangled bodies of those who had fallen a sacrifice to its insatiable thirst of blood. They appoint ambassadors every way worthy of such an embassy—Frost and Joel Barlow; the latter of whom, from his principles, was eminently adapted for such a service. These messengers were by no means inclined to

dissemble the sentiments of their constituents : in their speech to the Convention they said, that the Revolution in France had made Revolutions easy, and that the people of England were impatient of receiving similar congratulations, to those which they were deputed to present to the representatives of the French nation. But why, it may be said, should the rash expressions of these individuals implicate the Societies in their folly or their guilt ? The reason is obvious. All that they had done was approved of by their constituents. Citizens Barrere, Roland, and St. André, who were most active in deposing their King, and who afterwards voted his murder, were created Honorary Members ; and their speeches in the Convention, upon the deposition of their Sovereign, were engrossed in the minutes of the Society, which was a marked approbation, and an implicit adoption of every word they delivered. Having thus stated to you, from their own books, the principles of these Societies, I will also shew you, that their own deliberate acts had no relation to their professed objects. On the 19th of April, 1792, a Society was established in the Borough of Southwark, if not by Mr. Thelwall, he was at least present at its institution, and privy to the measures which were there adopted. Gentlemen of the Jury, this piece of evidence is particularly worthy of your attention, because it is the first which can be materially and personally brought home to the prisoner. In its Resolutions, in which the objects of the Society are declared, there is not a word about Parliamentary Reform. They maintain, that an adequate Representative Government, founded upon an equal active citizenship, is the wisest step of human policy, and the object to which their aims are directed ; and, an equal active citizenship, tending to an adequate Representative Government, we find, in the political dictionary of Mr. Barlow, signifies a constitutional system, in which neither a King nor Nobles are recognized as branches of the Legislature, and therefore the object of the Southwark Society must have been the entire subversion of the present system, and the establishment of pure republicanism. The next piece of evidence is a letter of the 5th of March, 1793, addressed to the Constitutional Society, which will prove that I am not imputing to them designs which they did not themselves avow, and which therefore confirms the former evidence. In this letter they state the calling of a Convention, which is one of the every

acts charged upon the prisoner, as a matter worthy of serious consideration. "We are already" say they, "a conquered people," conceiving with Mr. Paine the constitution to be derived from William the Conqueror; and this allegation, as false as it is frivolous, they introduce as an apology for calling a Convention: because, say they, "to petition Parliament for a reform will be of no avail, and all our intreaties on this head will terminate only in mortification." Besides, "it is unworthy of a society of freemen to petition for what is their right, and what they have only been deprived of by force, rapine, and injustice."

Observe, gentlemen to what, in this imaginary dilemma they resort: to a Convention, not surely to extend the degradation of petitioning Parliament, to which they would not submit, to a numerous body of their fellow citizens, equally inflated with a sense of their own importance. This would have been to increase the affront, and much to lessen the importance of citizenship, by engaging the people in a petition which they considered of very uncertain issue. The intention was to over-awe the Legislature, or boldly to assume the reins of Government: Here the mask drops off, and treason stands disclosed. Complaints which are justly founded, will never be conveyed to Parliament in vain. Redress will immediately follow the grievance, if applied for in the proper way, and at the proper season. But this was not their wish: it was a measure in contradiction to this, and which they say will be successful, as soon as the people of this country not are virtuous enough, but are courageous enough to effect it.

In the name of common sense, what courage does it require to petition for the redress of a grievance? Who is oppressed, and has not fortitude enough to complain? From a letter of the 11th of November, 1792, from the Society of Norwich, to the Corresponding Society, it will farther appear, whether I misconstrue their actions, or if it is not the irresistible interpretation of their proceedings. Is it a forced construction, that those who vote thanks to Paine for his publications, approve Republican principles. It is the construction which the plain tradesmen of Norwich put upon the proceedings of the Society of Manchester; and is it wonderful that Government should be uncertain about what the Friends of Freedom themselves suspected them of. In doubt respecting their real intentions, they ask, "If the Corresponding Society mean to rest satisfied with the Duke

of Richmond's plan of universal suffrage and annual Parliaments; or if it was their *private design to rip up Monarchy by the roots, and plant Democracy in its stead.*" To see whether it was or was not, let us attend to the answer which was returned. It is dictated with much caution, for they were alarmed at this plain blunt question: they did not know whether it might not be put with an insidious intention, nor whether their Norwinch brethren were ripe enough to receive information of their views. They state the difference which subsisted between the political opinions of the Societies as a matter of small importance. You see throughout with how much art the letter is written. Had any person written to you, gentle men, enquiring if it was your professed object to rip up Monarchy by the roots, would you have given an ambiguous, evasive answer? Would you have appointed a less conspicuous person to whom you could write in future, and appointed a private channel of intelligence? Would you not have repelled the charge, and for ever have renounced connection with the individual or Society who could suspect you of a crime, from the commission of which your mind recoiled? But this was not the plan of the Corresponding Society, because their sentiments were different from yours. I would next call your attention to a letter from the Stockport Society to the Constitutional Society, dated 17th Sept. 1792, in which they express themselves dissatisfied with every existing power, which they have not themselves constituted and appointed. Now you will please to observe, that these are the very men who had thanked Mr. Paine for that production in which he maintained, that the people of England have no constitution which they themselves have formed. In this letter there are also several blanks, which there is but one way of filling up. This task, however, I leave to you to perform; I would only observe, that there certainly was a difference between their real sentiments, and those which they thought it prudent to avow.— The answer of the London Corresponding Society, is also expressed in as strong terms as their prudence, as they term it, will permit. But why conceal their sentiments, if a Parliamentary Reform was all they had in view? Or what association of ideas is there between Reform in Parliament and the French Convention, which obtrudes itself in all their resolutions. On the 29th of May, Skirving, who was active in forming the Scotch Convention, writes to the

London Corresponding Society; and in this letter there is the most unequivocal avowal of his views and intentions. Is there one word of that relates to Parliamentary Reform? Strip it of the metaphorical language and the affected mystery in which his sentiments are enveloped, and you can easily discern his object is the destruction of the existing Constitution, and the renovation of the political system. In consequence of this letter, a resolution was passed to send delegates to the Convention from the different Corresponding Societies. This Convention set out with the professed object of Parliamentary Reform, but it soon deserted the plan of petitioning Parliament, and proposed assuming the powers of legislation into its own hands, if its efforts should prove successful by the interference of other Societies. It organized itself into a permanent legislative body; formed itself into committees of Secrecy, Safety, and Finance, in imitation of their sister Convention in France. Its members bore the title of Citizens; and their business was transacted according to the order of the day. It called itself, This House; and in every thing, except in power, assimilating itself to the general Legislature. It early foresaw the probability of its own dispersion; and on the 3d of November, the members solemnly rose up, and joining hands, bound themselves to support each other. The pledge was of such a nature that it was ordered to be the last thing entered in their book. But from all their resolutions, it is impossible to entertain a doubt of their hostile intentions against the existing form of Government. They were to watch the measures of the Legislature. But who were to be the judges of the constitutionality of these measures? The Convention claimed the prerogative; and thus, had they carried their designs into execution, would have superseded the authority of the legislature. The civil powers interposed, and thwarted their treasonable purpose;—but observe, gentlemen of the Jury, the conduct of the English societies on this occasion. Did they renounce their connection with that body, whose proceedings had been adjudged as dangerous to the state, and whose meetings had been adjudged as illegal? Did they recal their delegates, when the Convention delivered the plan of Parliamentary Reform? No; on the contrary, they passed resolutions on the 21st of October, 1793, approving all the proceedings of that body, which had been already proscribed. They approved of the conduct, in particular, of those members who had been marked victims to justice;

and the repression of the Convention in Scotland, suggested the idea of a similar assembly in England. On the 24th of January, 1794, Mr. Martin in the chair, a general meeting of the Corresponding Societies was held. Now, it is worthy of your notice, that Mr. Thelwall was present at the former meeting of delegates, when this general meeting was resolved upon; that he prepared the business which was to come before this assembly, and that he afterwards took an active part in it. Their object was, to excite the people to assemble in a Convention. If you can judge from their proceedings, can you entertain any doubt of the views of the society at this time? If their intentions were ambiguous before, they are now emerged from under the cloud. Can language be plainer than what they now use? They must have Parliamentary Reform by their own laws—they must find redress in their own laws; and these laws are erected as a standard to which the legislature must conform, else they will immediately exercise their controlling power.

In the proceedings of the society at Chalk Farm, of which Mr. Thelwall was a most active member, there are strong insinuations that the Monarchical and Aristocratical branches of the legislature ought to be abolished; any respectful expressions concerning either are evidently ironical, and their doctrine of resistance is avowed, not in abstract speculation, but brought home to the present state of affairs, in such direct terms, that I think it impossible for any ingenuity to explain it away. Thanks were voted to Mr. Rowan, for his exertions in the cause of liberty, who at that time was in custody on a charge of High Treason, and 200,000 copies of their proceedings were ordered to be published, with no other view than to excite the people of England to resist the government of their present rulers. On the prisoner a paper was found, containing a draft of resolutions which were afterwards adopted by the society, and clothed in different language. In this paper, there is a plain avowal of the doctrine of resistance; a direct aspersion of his present Majesty, and a marked design of establishing their system by force. Armed associations were held. The people were exercised to the use of arms, not in the open fields, but in private rooms and garrets, and proposals were made from Sheffield to the Corresponding Society for supplies of martial apparatus. Now, Gentlemen, is it not fair to judge of the intention of these measures, from the limited scale on which they were

practised? To what extent they might have been carried, had they not been checked at the beginning, human sagacity cannot foresee. Conspiracies have always taken their rise from a few, and a plot is not less to be feared because, at its commencement, the numbers who are engaged in it may be little respectable. Thus, Gentlemen, I have laid before you the whole of the written evidence; upon the parole testimony I shall not enlarge, as it will come best from the mouths of the witnesses who will be brought forward in the ensuing part of the trial.

He thought it could never be objected to, or said it was uncandidly done, if he introduced Mr. Thelwall's character and opinions to the knowledge of the Jury, such as they were drawn by himself. This he meant to do by reading to them a copy of a letter found in his house, and in his own hand-writing, appearing to be a letter addressed to some friend who had left this country, and gone to America. Whether the fact was so or not, did not clearly appear;—perhaps the letter might be written as an exposition of the conduct of Mr. T. It was avowedly to defend himself from the charge of having become lukewarm in the cause of Liberty. To refute this, he says, “no man has gone bolder lengths, or had encountered greater danger in the cause of Liberty than himself; that for these four or five months past, he had been the sole labourer in the London Corresponding Society, the only set of true *Sans Culottes* in this metropolis. He had also been charged with being a Brissotist; this, he says, sits easily upon him; and that he believed Brissot to be a true Republican, whom he honoured when living, and lamented when dead. In this letter he gives an opinion respecting the affairs of France—He conceived the Mountain were the only men that could hold the helm of the State, in that tempestuous and critical season. After further discussing matters relative to France, he says, *I am a Republican and a true Sans Culotte*. From thence—America was the topic of the letter, and he states his opinion, that American liberty is not founded upon a sufficient broad basis; for that they have “too great a veneration for property, too much *religion*. and too much *law*.”

Mr. Thelwall also informs his correspondent, in this letter, that he had made an attempt to found another Political Debating Society in the Borough, and that the magistrates had done all in their power to counteract him, but, when they found the meeting was to be assembled, they sent a number of constables, police officers, &c. who came into the room,

and disturbed the company, by singing "God save great Jolter-head!" When they found that the company was cautious of entering into any disorder or riot, they attempted to throw him, together with his desk, chair, &c. all down together, which, at last, they effected, but he was borne off in safety by his friends. During these proceedings, the magistrates were mixed among the mob, encouraging and exciting them to these acts of violence. In this letter, the learned Serjeant said, was to be found an account of the political opinions of the gentleman at the bar, such as they were drawn by his own hand; it would be for the Jury to determine how far his actions had squared with them.

He avowed himself a Sans Culotte. What was a Sans Culotte—where should we find a definition? Sorry he was to see that word so much introduced into this country. Would you know what constituted a Sans Culotte? By their fruits shall ye know them. Ask those who were present at Paris during the massacres of September? Ask those who had seen the destruction of commerce and manufactures of the once flourishing city of Lyons? They would tell you what were those beings called Sans Culottes. They were the men, who, when their murdering instruments could not fall fast enough to satiate their vengeance and thirst of blood, drove hundreds of miserable victims into a church, where they were all destroyed at the same time.—These were Sans Culottes?

The charge of being a Brissotine also in Mr. Thelwall's opinion, was a charge he thought necessary to be repelled: although the Brissotines were good Republicans, and they also voted the death of their King, but yet they did not reach those sanguinary extremes of their opponents, the Mountain, as they were called. That Mountain, which in Mr. Thelwall's judgment, were the only men fit to hold the helm of state, and guide the Government of France. Neither had America been overlooked in this letter. She possessed a regular Government at least, whatever its form might be; large and strong prerogatives were vested with the executive Magistrate, although he was not hereditary. Republicans of this country had hitherto viewed America with an eye of complacency, but according to Mr. Thelwall, she had too great a veneration for property, too much religion, and too much law. He had also professed himself an active Member of the Corresponding Society, and it would appear he had not professed more than really was the case. He had used

every method to stimulate and incite the people to action ; he had given political lectures, the general scope of which were to villify and traduce every thing sacred in the country, —The government—the Magistracy—the laws—and the Juries—for even they had not escaped. He had acted with caution, and endeavoured to steer clear of any thing that might be immediately reprehended, yet it would clearly appear that such was the result, and general effect of the whole, when taken united, and in one point of view.

As further proof of the sentiments of the prisoner at the bar, Mr. Serjeant Adair read a private letter from him to a friend, addressed, “ Citizen Jack Wells;” wherein he gives an account of the Meeting of the 24th of January, and observes, that it was not in London alone that all was alive, but there were Liberry Boys in Scotland, &c. &c. But as a proof that Mr. Thelwall was not totally regardless of his personal safety, he must inform them, that he had taken the opinion of a gentleman of the Law relative to his Lectures. He was sorry that any Member of the Profession should give such advice as that contained in the paper which would be read in evidence to them. His name he would not mention ; they would learn it when the paper itself was produced in evidence. It was to this effect, “ that the writer could scarcely tell what to say—but he advised that Mr. T. should not use any severe expression, when treating of the King, or of the Monarchy, nor of the Aristocracy of this Kingdom. Of Reeves and his Association he might say what he pleased —He advised him to speak slow and cautious, any if at any time he said any thing dangerous, immediately to explain it away.

He lamented much that such advice should be given which taught men with impunity to insult the laws, and insult the Magistracy of the country. He said the case now before the Jury differed from those which had preceeded it. Hardy had been represented as a man who had never uttered a contumelious expression against the King or Government: and Mr. Tooke had brought evidence to shew, that his general conduct was friendly to the monarchy and aristocracy of the kingdom—Here they had the prisoner’s own declaration, that he was of far different sentiments. The Verdict they had to give was great and momentous: it involved he might say, the principles of civilized government and order; and, on the other hand, it also affected the life and honour of the Prisoner at the bar.

He doubted not, but from the evidence as it would be laid before them, they would draw such a conclusion as they thought would be satisfactory to God and their country.

The Court adjourned for an hour to take some refreshment. When they returned, the proceedings of the different Societies, as far as related to Paine's books were read, and afterwards the same extracts from the books as were read in Hardy and Tooke's trials.

Mr. Adams sworn, examined by Mr. Bower:

Q. Were you Secretary to the Corresponding Society?

A. Yes.

Q. Did Mr. Thelwall attend as delegate at your Society on the 4th of April, 1794?

A. He did.

Cross examined by Mr. Erskine.

Q. When did you become Secretary of the Constitutional Society?

A. Ten or twelve years ago.

Q. What were the objects of your Society?

A. A Parliamentary Reform.

Q. You say a Parliamentary Reform.—Pray in what part?

A. In the house of Commons.

Q. Had you any reason to think the Members of that Society had any intention to subvert the Constitution?

A. No.

Q. Was any proposal made to procure arms?

A. No.

Examined by Mr. Bower.

Q. Do you know whether Mr. Thelwall saw these books?

A. I do not know he did.

From the Court.

Q. Was Mr. Thelwall a Member?

A. I do not know he was.

Here Mr. Erskine said, that Mr. Thelwall was not a Member until the year 1793, and that he was not accountable for what happened antecedent to that period.

The Lord Chief President. Mr. Thelwall might accede to a matter agreed to in 1791, at the time of his admission.

Several passages of Paine's Rights of Man were then read, the most particular of which was that which treats of the present old Government.

Chapman repeated his former evidence, of having printed the first, and part of the second part of Paine's Rights of Man.

Jordan the Bookseller, not being present immediately when he was called, Mr. Erskine admitted the publication, and the exceptionable parts were accordingly given in evidence.

The Lord President, when the evidence from Paine's works were read, observed, that in order to enable them to attend early in the morning, it would be necessary to adjourn by times.

SECOND DAY.

Tuesday, December, 2d.

The Court meet according to adjournment, when *Joel Barlow's* letter to the National Convention of France was read.

The Report of the Committee of the London Corresponding Society, respecting an Address was read.

—*Lauzun* proved the finding of these papers in *Hardy's* possession.

The proceedings of the Constitutional Society on the 20th of April, 1792, were next read, by which it appeared, they had received an Address from a Society in Southwark, associated for the purpose of Annual Parliaments, and Universal Suffrage.

Mr. Serjeant Alair said, he should call a witness, who would prove *Mr. Thelwall* to have been present at the formation of this Southwark Society.

John Taylor said, he became acquainted with *Mr. Thelwall* at the latter end of the year 1791; he was present at the Meeting held at the Three Tun Tavern, in Southwark. *Mr. Favell* was in the Chair; *Mr. Russell* acted as Secretary, and *Mr. Thelwall* was present. *Mr. Gurnel* made a speech, in which he stated the abuses of Government, and the necessity of a Parliamentary Reform: he also moved an Address, which was adopted. It was generally understood, that they were not to be connected with the Friends of the People, because it was thought they only

professed a *wish* of Reform, but with intent to supplant Administration, and place themselves in their situation. He was also at other Meetings, in company with Mr. Thelwall. He was at the anniversary dinner at the Constitutional Society in the year 1792. Also at the Three Kings, in the Minories, and at the Dinner at the London Tavern, held to celebrate the Revolution of 1688. At the last place an Address was proposed to the National Assembly, or Convention of France; he believes it was by Mr Thelwall, but is not certain.

Cross-examined—They did not join with the Friends of the People, because it was not thought they were sincere in their wishes for Reform. The object of the Southwark Society, and the only object was Annual Parliaments, and Universal Suffrage. He never heard a proposition for using force to accomplish their ends, and Mr. Thelwall was a man who no way inculcated peaceable measures.

Cross-examined by Mr. Thelwall.—He never heard any thing from which might stimulate the people to violence, but had often heard him declare, “that whatever a man’s speculative opinions might be, Reason and Argument were the only weapons he should use,” He never heard him use any expression of contempt against the Sovereign, but in every part where he had heard him, his conduct was pacific.

Upon a re-examination, he said, he had been at Norwich this year and a half, and during that time had never seen the prisoner.

Some papers were then read, shewing the prisoner to be a Delegate, and had acted accordingly.

The resolution of the Constitutional Society in May 1792, to address the Jacobins, was then read, together with the Address itself, which is contained in the Appendix of the Report of the Committee of Secrecy.

The Resolutions of the 13th of July, 1792, of the Constitutional Society, was read, “That the six Members recommended by the London Corresponding Society were elected.”

A letter from Stockport, dated 17th of September, 1792, was then read, it is addressed to the Secretary of the London Corresponding Society. It enquires whether all the evils complained of would not be done away by a Convention? At the same time it thinks, that the addresses of the London Society, “hardly rise to that height, which they expected from men sensible of their full claims to absolute and incontrovert-

able liberty," The answer tells them, *their language is full as strong as prudence will permit.*

A letter, from the Editors of the Patriot, to the London Corresponding Society was next read. It tells them not to lose sight of the method by which France became free, viz. by active and regular unison.

The letter from Norwich of the 11th of April was next read, which enquires into the design of ripping up Monarchy by the roots, &c. together with the answer to it; which recommends to the Norwich Society, to follow the example of those formed in London.

Mr. Serjeant Adair said, he should now proceed to a new head of evidence; those parts of their resolves, which related to addressing the National Convention of France. 1st. The minutes of the Constitutional Society, on the 28th September, 1794; when a letter was read from the Corresponding Society, expressive of their intentions to address the French Convention; and also a vote of approbation, by the Constitutional Society. Next the minutes of the meetings of 12th October following; when the address was received from the Corresponding Society. The address itself was also read.

These Papers being read through;

The Rev. Mr. Williams was then called, to prove the hand-writing of Mr. Thelwall, in a letter which was produced, addressed to Citizen Delham, and signed, "T. Thelwall." Mr. Williams deposed, after some hesitation, that, to the best of his knowledge, the whole was in the hand-writing of the prisoner. Mr. Thelwall interrogated the witness how often he had seen him write, how much, and on what occasions; to which Mr. Williams replied, that he had seen him twice sign his name, once, when he applied to him for a licence to marry one of his parishioners, and, a second time, when he put down his name in the parish register, subsequent to his marriage. The letter was then read.

James Davidson was next called, who, being interrogated by Mr. Law, deposed, that he had printed the Resolutions of the Society, of the 20th of January, by Mr. Thelwall's order; that he had received all the manuscript, except the last page, from Mr. Thelwall; that 2000 copies were first thrown off, and that, in all, he had printed 8000 of these; that he had delivered 6000 to Hardy; and that he had distributed the rest to any one who chose to call for them.

In his cross-examination, by Mr. Erskine, he declared, that

he had some previous acquaintance with the prisoner; that he had seen him at a Committee of Delegates, in a Division of the Society; that he himself was a Delegate, though not of the same Division with the prisoner. He remembered one expression which Mr. Thelwall had dropped; upon hearing a report of some cannon and ammunition being taken by Dumourier; he had a pen in his hand at the time, and, pointing to it, he said, this is the cannon, and to the ink, this is the ammunition, which can alone prove successful against ignorance, the bane of human perfection. He never heard him use any violent or improper expressions; on the contrary, he inculcated the people to be subject to the laws, and the laws would justify the confidence reposed in them.

He was again examined by the Counsel for the Crown, and persisted in his declamations of the peaceable and inoffensive conduct of the prisoner. He said, that he did not read the manuscript which he had printed, till after it was published. He allowed that it contained *some hard words*, and those he had mentioned to Mr. Martin, but never to the prisoner. The resolutions were read.

The Clerk of the Arraigs then proceeded to read several other papers read on the former trial; and at three o'clock, the Court adjourned for refreshment.

At four o'clock the Court resumed.

The Prisoner begged that Mr. Timms might be recalled, as from the low tone in which he had spoken when he was in Court, he did not understand what he said upon the subject of the last letter, which was read, and he had since learned from his Counsel, that the evidence which he had given would go to implicate him as being privy to the contents of a letter, which he had never seen; subscribed by a man, whose name he had never heard, and containing sentiments which he had always disavowed. The Chief Justice accordingly ordered the witness to be recalled, when he was questioned by Mr. Thelwall.

Q. Are you sure you found this letter in my pocket?

A. Yes.

Prisoner. How do you know this is the very paper, which you found in my possession?

Wit. Because I marked it.

Prisf. Where did you mark it?

Wit. In my own house.

Prif. Did not you put all my papers loofe into your pocket, and mix them with other papers, which you then had in your poffeffion ; and did not you, after having feized them, go into an anti-chamber of the Privy Council, and there fele&ct thofe which you thought you had found in my cuftody, from others which were then in your pocket, and bring them out into an adjoining room in feparate parcels, with a pen in one hand, as if you had been marking them ?

Wit. Mr. Thelwall, I have no recollection of any fuch circumftance.

Prif. You declare you have not upon your oath ?

Wit. I do.

Prif. Did not I claim my right of following you through every apartment in my houfe, to fee what papers you took ? In the cafe of Sidney, and others of a fimilar nature, the papers which the officers of the crown had feized, were brought to him before they were taken from his houfe, and after being allowed to look over them, he fealed them up with his own hands. I claimed a fimilar privilege as my right, and why was it not granted ?

Wit. Befeaufe I was ordered to take you immediately into cuftody by the Privy Council, and I only executed the commiffion I had received.

John Short depofed, that he found the refolutions of the London Correfponding Society, paffed on April 17, 1794, at Mr. Thelwall's houfe, which were read.

John Gurnel depofed to the identity of a letter, dated "Sheffield, April 27, 1794," figned, "Richard Davidfon," and addreffed "To Citizen Hardy," which was read.

A letter was then read, which Mr. Timms faid, he found upon Taylor of Norwich, and which Taylor believed to be Mr. Thelwall's hand-writing. The letter is dated February 13, 1794, and figned T. Thelwall.

Counfellor Gurney was next examined by the Solicitor General, relative to the letter, which Mr. Thelwall had written him, requefting his advice how far he might legally go in his political lectures, with fafety to himfelf.

Mr. Gurney depofed, that he had loft the letter which the prifoner had fent him ; that, to the beft of his recollection, it did not feem to have been dictated any way by the confcioufnefs of political guilt, but from a wifh not to tranfgrefs the law ; that his anfwer was written in very great hafte, and that he cannot precifely ftate the fentiments by which it has dictated ; that he meant it rather as a friendly, than a

professional advice ; that he does not think there was any thing in the note of the prisoner, which more particularly called for his caution, respecting not interfering with the monarchial and aristocratical branches of the legislature ; but he knew that the prisoner was warm tempered, and was sometimes apt to speak his sentiments in stronger terms than his sober judgment would approve ; and, he understood, also, that he was watched by spies, who, no doubt, had an inclination to torture every thing he said, into an indication of treasonable intent. He never heard Mr. Thelwall say any thing improper ; he never was present at any of his political lectures, nor at any of the meetings at Chalk Farm.

George Lynham was next called, and examined by Mr. Bower. He deposed that he had been present at most of the meetings of the London Corresponding Society. That he was present on the 24th of October, 1793, when it met in a field in Hackney road, and that the prisoner was there when delegates were chosen for the Scotch Convention. That he was present as a delegate of the London Corresponding Society, when it met on the 9th of April, 1794, at No. 3, Compton-street ; that the prisoner, along with Franklow and Baxter, was there ; that at this meeting a general committee was appointed, and a sub-committee chosen ; that this sub-committee consisted of Franklow, Thelwall, and Stephens ; that part of its business was to draw up an address to all the Societies in town and country, representing the proceedings of the magistrates in Edinburgh, and to deliberate upon the conduct of Mr. Dundas. The witness was not positive ; but he thought that the motion for a sub-committee was made by Mr. Thelwall ; that conversations were frequent, both upon the suspension of the Habeas Corpus Act, and upon a convention at the meeting of delegates ; but he did not recollect what was said. He said, that he was present at the Globe Tavern, at the meeting of the society ; that Thelwall was there ; that he addressed the people ; but that he neither recollected the subject, nor any part of his discourse ; that he staid till dinner, when Mr. Thelwall was in the chair, and regulated the toasts, among which were “ The Rights of Man—Citizen Margarot, and may his sufferings be rewarded with the affection of the people, &c.” He was present on the 23d of January, 1794, when the committee of delegates met at No. 3, Compton-street. Thelwall was also present, and proposed that a committee be

appointed to watch the proceedings of Parliament every night, and that all the delegates, meet every Thursday evening, when the first part of the motion was carried, and the second part over-ruled. A proposal was also made at this meeting to print hand-bills, stating the grievances which they wished redressed, and to paste them upon all the public places in London, and also to publish the names of those who had given evidence against the patriots; but this was not carried. On the 30th of January, Thelwall was present at the meeting of delegates. The delegates from No. 11, proposed to divide the metropolis into different divisions, and also to make application to those with whom they are not immediately connected to subscribe for the support of the delegates. This was referred to the Constitutional Society. At this meeting Thelwall moved, that a committee of delegates be appointed to consider of the measures proper to be taken in the present posture of affairs, and this Secret Committee to possess a discretionary power, whether or not to report to the general committee. This secret committee was to consist of Margarot, Williams, Baxter, and Thelwall. It was invested with the power of calling the general committee, but the general committee might dissolve it when it thought proper. Thelwall next proposed to take into consideration, the best mode of encreasing subscriptions for their delegates; but this was referred to the secret committee. On the 6th of February 1794, the secret committee was represented by Mr. Thelwall as dangerous, and therefore, he moved to have it withdrawn, and at the same time to form another secret committee, the members of which should not be known, which was carried.

The witness was then cross-examined by Mr. Erskine, respecting what he had deposed concerning the proposal of publishing the names of those who had given evidence against the patriots. He denied that he was the author of that motion which Mr. Erskine demanded of him. He said, that he remembered no reason for its being withdrawn; but upon his being desired to look to his notes, he found out that it was withdrawn at the desire of Mr. Thelwall, that it might not expose any person to public obloquy. Mr. Erskine animadverted, in the most pointed terms, upon this equivocation.

Juhn Taylor was next called, when the counsel for the prisoner objected to his evidence, as being still under the punishment which had been decreed against him for the crime of bigamy, of which he had been convicted. The records

of the last sessions were produced, when it was found that the term of his imprisonment was expired, and that he had paid the fine which had been laid upon him by the judgment of the court; for which reason the objection was repelled, and he was admitted to give evidence.

Mr. Taylor, in giving his evidence, spoke from written memorandums taken at the time:

In the beginning of February, 1794, he attended one of Thelwall's lectures, which concluded with these observations —“ Tyranny and despotism are on the eve of dissolution through every part of Europe. The undertaker is knocking at the door, and the coffin is already bespoke. Be steady and resolute, fellow citizens, and your end is accomplished.”

About the beginning of the same month, at a meeting on the London Corresponding Society, Richter made a motion that the names and places of abode of the members of the society who resided in the same neighbourhood might be put down in a book, in order that on any sudden emergency they might be easily collected together. A member from one of the divisions said he was sent to report, that information had been received, that the *Habeas Corpus* act was about to be suspended. Richter took an opportunity, in a speech of some length, and in very strong language, to reprobate the constitution and laws of this country, and the administration of them. He concluded with recommending to take measures to provide themselves with arms and ammunition, in order to defend themselves against every attack, whether made by the people of this country or by any body else. He remembered a hand-bill being produced, which was circulated at the theatre, and was written in consequence of the accident that took place at the theatre on the preceding Monday: it stated, “that though there was no sorrow expressed for the loss of 20 English subjects, yet there was mourning for *Louis*, who had been a determined enemy to this country.”

On the 18th of February, 1794, in a private conversation between Thelwall and Hodgson, about the necessity of laws and government in general, Thelwall argued against the necessity of any laws or government in a large state.

On the 20th of February, 1794, there were about 120 members of the London Corresponding Society who met at dinner, (being a general Fast) as he understood, to ridicule the idea of that fast. A lecture was delivered by Thelwall

in the evening of the same day, when he read the paper entitled the Bantum Cock. He observed in speaking of Kings, that the King's Evil was not the only evil respecting Kings.

On the 3d of March, 1794, at a meeting of the London Corresponding Society at New Compton-street, they voted 14 silver medals to the Jury who acquitted D. I. Eaton, and to his two counsel. Their names were to be put on one side, and a Bantum Cock on the other.

There was an address drawn up for Margarot, signed by Thelwall, stating in what estimation the London Corresponding Society held his virtues. It was ordered to be inserted in some of the Morning Prints, and to be sent to Margarot on board the hulks.

A member informed the meeting, that a number of persons, hired for the purpose, were to break up the Lectures of Mr. Thelwall; and it was agreed, that the members of that division should attend and protect him. They all promised to attend, and to arm themselves with some means of defence. When Thelwall came into the room, he confirmed the report. He had a stick in his hand, in which was a sword. He drew it, and said if any one attempted to disturb him, he should defend himself. On the 21st of March, 1794, Thelwall, in one of his lectures, made an inflammatory speech on the court of Jusiciary in Scotland, with regard to the sentences of Gerrald, Margarot, &c.—He said they had been convicted on a preconcerted determination.

At a lecture, the 28th of March 1794, Thelwall observed that there were inquisitions at present for men's private thoughts, and as a proof of that he brought forward John Frost. He observed that it was neither treason nor sedition for a man to say he wished there was no Kings, only adding it would be better if there was no Kings.

On the 31st of March, at a meeting of the society, a circular letter was to be sent round to all the societies, stating the necessity of a general Convention. It was agreed also that there should be a general meeting of the society on the 14th of April next. That meeting was to be held in Store-street. Thelwall said the measures to be brought forward at that meeting were of so much importance to the society at large and to the cause in which they were engaged, that secrecy was absolutely necessary.

The witness next described the meeting at Chalk Farm on the 14th of April, where near 2000 people attended. It

was there a subject of debate, whether the question should be put on the resolutions in the gross, or on each of them separately and distinctly? Mr. Thelwall observed, that if they voted them in the gross, it would have the appearance of smuggling them: and he should be sorry if that meeting had any affinity to a certain house. He spoke of spies, and particularly of one *Walth Lavender*, and said the last person's name was very necessary to perfume such dirty business.

In his lecture of the 16th of April, he adverted to the subject of arms. On the 22d of April, at Robin's Coffee-house, it was observed, that it was in contemplation to bring in a Convention Bill, and if the society did not use the greatest dispatch, they would not have an opportunity of calling a general Convention of the people. Another member observed that that would sooner bring them to their point.

On cross examination by Mr. Gibbs, the witness said, the notes from which he spoke were not the original memorandums which he took. He wrote his original notes the same day, or the day after the transactions happened, and the notes from which he spoke, were copies immediately taken from these original notes. The substance was the same, the sense the same, and the words the same.

Mr. Erskine and Mr. Gibbs contended, that the witness ought not to have been permitted to speak from those notes as they were copies and not originals which he took at the time.

Lord Chief Justice Eyre, without hearing the other side, was clearly of opinion, that the witness might speak from those notes, which ought, properly speaking, to be considered as his original notes, and the rough draft from which they were taken only as the inception of them.

The Court adjourned at nine o'clock.

THIRD DAY.

Wednesday, December 3d.

Mr. Erskine rose, and observed, he again had the honour of addressing a Jury upon the subject of the matter charged in these indictments. He addressed them under circumstances somewhat new and singular, and not without peculiar embarrassments. The first was, being so unexpectedly called upon to rise in his defence; he could not complain of his

learned friends, because they had abandoned the proof of much matter, which in the outset had been relied upon as material. Such indeed as he had conceived would be pressed as most material, it would ill become him therefore to complain that it was not adduced. The next embarrassment he had a right to complain of. It was of that enormous mass of evidence which even Lord Chief Justice Eyre had declared to become more unintelligible by a second repetition, than it was at the original view of it. Another embarrassment was, that although Hardy had been acquitted, and consequently the conspiracy negatived, yet still this cause proceeded. All these, though at first view they might seem favourable, yet it was astonishing to see the cause going forwards, and a conviction asked, with an energy which it was impossible to bring twice into the field. The head turned, and the stomach nauseated at repetition of the same things. The learned counsel who had conducted the former cause, had deprecated the prejudices which went abroad; but what were the prejudices against him, when compared to the prejudices of a man standing for trial of his life before the public; and when every thing he had had done was produced like a volume before the public. Some malignant and scandalous ruffians had not hesitated to declare, that as a jury had not done justice, the people themselves should take personal vengeance upon the men acquitted. He had not handed these papers to the King's Attorney General, nor had moved for attachments, because the authors were unknown to him; but doubtless at this statement the jury would feel every principle of Englishmen roused within them, and every feeling of man blown into a flame. This therefore, instead of injuring, would serve their cause, and thus it was, that an over-ruling providence bends every thing to its own wise purposes. That those whose sense would not lead them to serve the cause of virtue, yet the exercise of their villainy should lead to the same end. Having said this, he meant to apply to the charge and evidence. He did not call upon them for mercy, but he asked strict justice: if the jury should be of opinion that he had incurred the charge laid to him, then, he said, convict him; but if there appeared no colour of guilt, then, leaving mercy aside, he demanded only justice. Through the whole course of Criminal Law, its precision was one of its noblest parts, which not a hair of a man's head could be touched upon a criminal charge, without sufficient accuracy in the crime charged. In this case,

the indictment must charge the fact of compassing and imagining the death of the King; and, upon the authority of Lord Hale, he would tell them, that unless he was so charged the indictment was bad. The next thing necessary to be proved was, the traitorous purpose and intention.— Lord Hale says, that compassing the death of the King being an act of mind, the statute required that some act should be done which should manifest the intention. Here the indictment charged a design to subvert the rule and legislation of the kingdom, and to depose and bring to death the King. The overt-act charged, was that of conspiring to assemble a Convention. If it had stopt here, there had been no criminality charged, but it went on, which Convention was to destroy the legislature, &c. and bring to death the King. The only matter for the jury here to decide was, the plain unintangled matter of fact, whether the Convention to be assembled was to be assemble with such intent? Not whether such or such might have been the probable consequences, but whether in reality and in fact such was the intent of assembling them.

The first part of the indictment here contemplates the general matter, and then descends to particulars, shewing how it was to be affected. Pursuant to this, it states that the prisoner, together with Mr. Joyce, who is acquitted—Mr. Bonney, also acquitted—Mr. Sharp, who is called as evidence on the part of the Crown—Mr. Lovatt, against whom a bill was not found, that the prisoner, together with these others, did conspire, and consult to procure such Convention. It must be proved that it was for the express purpose charged, that these meetings were held, for if the foundation fails the roof must of course fall in. There was also another charge of a conspiracy to levy war. If this should be proved, and they should believe they intended to levy war against the person of the King, it would be good evidence of an overt-act of conspiring the King's death; but it was necessary to prove these things, and if they failed, it mattered not whether his client was a prudent man or a rash one. It behoved them to shew him a traitor, and a traitor of that particular description with which they charged him. The learned Serjeant had, in opening this case, spoken four hours and a quarter, without introducing a single piece of evidence that was new; he hoped, that without replying so long, he should not leave a single piece which the learned Serjeant would think worth supporting.

Here Mr. Erskine commented, with great ability, upon the written evidence ; the first piece that had been introduced was the meeting at the Three Tuns tavern, in Southwark, and it appeared that they instituted themselves into a society for Parliamentary Reform, with a design of corresponding with those societies, whose objects were similar to their own. This society was connected with the Constitutional Society, and that was represented as the chief spring of this great conspiracy. Mr. Tooke, a man of capacious mind, and unfathomable art, as had been said, was the chief spring of this society—he had been tried and acquitted—Hardy secretary to the other society, was represented as a man composed of the same ingredients—He too had been tried and acquitted. If the verdicts in these cases had not been satisfactory, why let loose those other gentlemen, Messrs. Joyce, Kyd, Holcroft, and Bonney. It was not unworthy the notice of the gentlemen of the Jury to attend to the evidence of Mr. Taylor, who was called by the crown to give an account of the Southwark meeting ; and at the same time, to remark the difference of the testimony between those who were honest and those who were notoriously hired spies and informers. A man must have a pretty large swallow to take down all said by the latter ; and no one man had some forward to corroborate what had been asserted by them.

The object, then, as said Mr. Taylor, of the Borough Society, was Annual Parliaments and Universal Suffrage, whether they judged ill or well it was not for him to determine—that was a mere matter of opinion ; but in pursuing this opinion, they built upon the plan of the Duke of Richmond. They looked into his book with the same veneration as a Mahometan views his Alcoran. He would read some of it to them to shew them how useless and nonsensical it was to be frightened and alarmed at words. These men thought as his Grace had thought, that if the voice of the people could be collected and carried to Parliament, it must have its effect. Separate petitions from small bodies they did not expect to be so effectual, and he would use the words of the learned Serjeant himself, who, in his opinion, had said, that the voice of the people had even been attended to by Parliament ; so thought his client. In all their papers, they continually use the term of “ the People,” and do not distinguish themselves, or claim any thing as individuals, but what was due to them as a part of

the people. If in pursuing these measures they committed any excesses, it was sedition, something resembling the *Seditio Regni* of Scotland; but so far from any design of effecting the King's life, they believed his throne would be more secure, his Crown more brilliant, and his personal happiness more compleat, if they could effect their intended Reform. He took it for granted the Duke of Richmond did not, when he published his plan of Universal Suffrage, wish to give up his rights. He was descended from the Kings of the country, and covered with splendour:— Surely he never intended to produce such convulsions as was said must attend the measure! He mentioned these things, not to blame the noble Duke; he blamed no man, but he adduced them as evidence in favour of his client. The learned Serjeant had stated, that among the papers of 1792 he clearly discovered the *Nucleus* of this Convention thereafter to be held, but his client did not become a member till long afterwards; the first evidence being a paper to prove him a Delegate in October 1793, at which time the whole business of this Convention had been carried into effect.— Hardy, who had been the first mover of this Convention, and, according to the words of the Chief Justice, had beat up for a Convention, had been tried and acquitted, and he contended, that such acquittal must proceed from a total negation of the conspiracy. The next time when Mr. Thelwall is introduced, is at the instructions given to the delegates. What were they. Did they not correspond exactly with his former declarations and opinions? The proceedings of the Scotch Convention had been also read, and it was said, they had proceeded to acts totally destructive of the Constitution and Government of this country.

Mr. Erskine here again went into the proceedings of the Scotch Convention. The whole of this had been before brought against Hardy, who had signed and was connected with every paper and transaction brought forwards. Mr. Thelwall was not. But the Jury were required to believe, that whatever sentiments others had, he came *alio intuitu*, with a mind prepared for mischief; though it had been sworn by witnesses that he had declared reason and argument were the only weapons, which, in his opinion, ought to be used; and instead of designing to destroy the Constitution, by the testimony of all the witnesses, it appeared as far from their thoughts as that of plucking the stars from their spheres.— The Friends of the People had been introduced into this

cause to shew that they thought the other Societies were going to lengths which in their opinions, were dangerous, but in fact it was not so. If they had conceived the Convention to be assembled was for the purpose which had been now stated, what would have been their answer to the letter which requested them to send Delegates? The Secretary of State would have answered it. They would have been guilty of misprison of Treason if they had concealed it.—The Jury had been requested to find the Constitution of the mind from the tenor of the Lectures.—Out of the fulness of the heart the mouth speaketh.—They were desired to believe, that the Lectures delivered by him consisted of abuse of Government. These Lectures had been delivered to support an aged parent by the produce of them; and Mr. Thelwall had exerted his reason, to furnish the comforts of life to another near relation, who had lost the use of than faculty.—In every case, the magnitude of the evidence ought to be proportioned to the cause. He had never said that spies were to be totally disregarded; but when they contradicted all the other evidence, and asserted things grossly improbable upon their face, they ought to be heard with many grains of caution. These lectures were delivered before many thousand people at different times; every one was admitted; and many of them had been published. Was it probable—was it possible—that he should beat up for the gallows in so public a manner? England must be far gone indeed, if not one honest man would step forward, and give testimony in behalf of his country.—Dangerous was the situation of the Constitution, if it was only supported by such rotten pillars—Spies and informers.

What account did this man give of the lectures? That Thelwall made a flaming speech! Why that was not evidence to recover 10l. in a common action; and what was the temper of mind the man carried with him, was it not for the express purpose of catching every thing unfavourable? This man, who came forward in this public manner, had been convicted of perjury. To enable him to commit a felony he had commenced with perjury; he had sworn himself a bachelor, for the purpose of contracting another marriage when his former wife was still living. Supposing this man had been no spy, and the Jury had given credit to him; who would be safe if they were to be judged upon the words that might escape from them in the moment of heat or incaution.

What man was there who had not at some time of his life

spoken irreverently even of the God he adored; Who amongst us had not at some time of spleen spoken disrespectfully of the Government under which he lived? Nay our nearest relations and best friends had perhaps, in a moment of anger, been severely spoken of. Mr. Justice Forster told them how dangerous it was to judge a man for words, spoken perhaps in the heat of blood, and that it ought to be taken with many grains of allowance. What would they then say to a man who came forward and insulted their understanding with a perjury proved upon him. Mr. Linam, another spy, also deserved little credit, from the manner of giving his testimony; when he told them, that at a meeting of Delegates it was proposed to publish the names of the witnesses against the Patriots, he added, but it was not carried.—When asked why he did not state Mr. Thelwall was the person who opposed it, he said, because he did not think it material. He thought his name ought to be struck out of all consideration. He did not wish merely to gain a verdict of acquittal, but to restore this unfortunate gentleman to his friends, his country, and his reputation.—He should produce a cloud of witnesses to his character and peaceable deportment.

Mr. Erskine commented upon the letter supposed to be written to America, and argued, that a man might be a Republican, *quoad* France, without being inimical to the Constitution of this country. He concluded, by expressing the utmost happiness in having the assistance of his learned friend, Mr. Gibbs, which would never be obliterated from his mind. He said, the duty he had gone through had been so laborious, that he never thought of doing the like again. He did not feel any anxiety for having so done, except the anxiety which must ever attend an English Advocate, when the life of a fellow-citizen was at stake.

The court adjourned at the usual hour to take refreshment.

At four o'clock being again met, evidence on the part of the prisoner was called in.

Mr. John Horne Tooke, examined by *Mr. Erskine*—Spoke of what he believed to be political character of the Constitutional Society:—its object was to belong to no party, but steadily pursue its purpose—this purpose was at all times avowed, that of correcting abuses. Party men frequently came into it, but always went out again voluntarily, finding its views different from theirs, which more regarded persons

than measures.—He did not however say that the society had never changed its objects of a secondary description.—They no longer looked as they once did, to any reforms in the ecclesiastical Government of the country; they had given up the subject of tythes, and he believed Universal Suffrage in elections.

Remembered something of a correspondence between people calling themselves the London Corresponding Society; it was not a matter that pressed strongly upon his mind. Never saw any thing in the society which gave the least colour of a disposition hostile to the establishments of this country.—Would venture to advance it as his opinion, that he must have known of treasonable designs had there been any such entertained, because he ever conceived himself a man much suspected of treason; that is to say, such an one as treasonably disposed people would have trusted. None knew of his Monarchical principles! Parliamentary Reform was the avowed object of them all; only differed as to the extent of their views upon the subject—Had no notion that any meant to exceed the duke of Richmond's plan—As different divisions of the society met at different seasons, their objects appeared to vary.

There were undoubtedly among the mass some of weaker intellects than others, but in general the arms of reason were those only resorted to—He did not believe that any of the writings circulated by the general approbation of either of the societies were intended to excite rebellion, or any thing like it.

Only remembered the appointment of the Scotch delegates as a matter of hearsay, except in a single instance, when it was proposed by a member in conversation, not then determined on. His objection to such a convention was, that he did not think it sufficiently respectable to command the attention of Parliament, or he should have no objection to sending delegates, as he never looked upon it as assuming the character of a legislative body—Knew little however of its proceedings.

Did something in the pecuniary way for Sinclair, a delegate, a man who was never prosecuted.—Agreed to thanks being given to Paine for the first part of his Rights of Man, not because he thought there was much good in the book, (he did not think one-third of it worth reading) but because it pointed out some abuses bitterly.—If called upon to speak his own political disposition freely, Mr. Tooke said he was

ever inclined to act, as far as the law went with him, in provoking those who wished to act beyond the law.—He never thought Mr. Paine's book went to subvert the Government of this country—Did not think such was Paine's object. Mr. Tooke ever differed with him widely, but did not quarrel in consequence; and once Mr. T. remembered, that to pacify him he was obliged to promise not to differ with him for three months.

It here became necessary for the Attorney General to observe, that the evidence was becoming somewhat irregular.

Mr. Tooke proceeded.—He believed he moved the address to the National Convention of France---the address itself was the work of Barlow---in doing so witness had not changed his original principles any more than the society with whom he acted had changed theirs---At that very point of time himself was even more kindly disposed towards the Constitution of England than he had been on a former occasion---The united motive both of himself and the society, in rejoicing at the progress of French freedom, was not that of giving a signal to the people of England to follow a French example.—The private reasons of the witness originated in a knowledge by experience and an abhorrence of the old system of France.—Could not however take upon him to speak of the motives of every individual.—Mr. Tooke here was proceeding to tell a story of his own particular experience in France in the character of a private man, though injured yet insulted by a person of rank, without the means of redress when it was again suggested to the Court that he was wandering from the purpose of the moment.

He repeated what he had said, that he did not believe there was any ill intentions entertained by the societies—could not in conscience have held any correspondence with them if there had.

Mr. Thelwall, he had known ever since the year 1790— he then recommended himself to him by his voluntary activity in his cause at the Westminster Election. Mr. Thelwall had for two years dined at the table of Mr. Tooke, at least once a fortnight—in all that time never heard him express himself amiss on the subject of the Government of this country—never in the course of his four years knowledge of him heard of any sort of criminality attached to his character.

Mr. Bonney examined. Witness became a Member of the Constitutional Society in the Spring of 1791. The

evidence of this gentleman was briefly an echo of the foregoing, so as it related to the views of the different societies. So likewise, speaking of the character of Mr. Thelwall, Mr. Bonney never heard him express himself hostile to the Government of this country.

Captain Harwood, of the 16th Regiment of Dragoons, spoke almost precisely to the same effect.

Cross-examined by Mr. Bower. Such papers he had seen circulated were of a moderate character, excepting in a few instances. Considered the proposed Convention only as an organ through which the people were to petition Parliament.

The letter written to Norwich was here produced, in which it said that no hopes were to be obtained from Parliament. Witness was questioned if he had agreed to the sending of that letter? He acknowledged that he had, and signed it. He afterwards, in answer to Mr. Erskine, said, that the hopes of the Societies were, that by frequent petitioning Parliament would at length be obliged to accede to the proposed measure.

A dispute here arose on the admissibility of the evidence of Taylor, who had spoken the preceding evening so largely from his notes, on account of his appearing, in the opinion of the Counsel for the prisoner, in the light of a perjured man, as it was contended every man must be who had married two wives by licence; since to procure a second licence, he must have made an affidavit that he was a single man.

On this head the Court determined, that from whatever motive the man might have acted in the commission of the crime of bigamy, his credit had been restored by a legal process.

With a view to disqualify him, however, the Counsel for the prisoner brought forward two witnesses to prove that he had perjured himself on the pending trial, inasmuch as he had sworn he never bore any other name than that of Taylor.

J. Topham, porter at Grey's Inn garden gate, knew J. Taylor, took care of a horse and chaise for him, heard him however sometimes called Roberts.

On his cross-examination the witness admitted that he was at the same time called Taylor.

D. Phillips swore, that till lately he never knew Taylor by any other name than that of Roberts—he had lodged with

him—found him at length in Newgate, in consequence of some information he had accidentally met with—was there told by him to say, if it was inquired, that his name was Taylor.

Mr. Cline, surgeon, sworn. He had known Mr. Thelwall seven years—chiefly spoke to his character as a correctly moral man. Politically he was a strong advocate for a Reform in Parliament—he had always the habit of expressing himself warmly in argument, but the witness thought he had no bad intentions.

— *Parkinson*, Hoxton-Square, had also known the prisoner seven years, about two of these intimately. His lectures were generally built upon the principles of natural right of man and good laws—no transgression of the latter was ever perceivable in the conduct of Mr. Thelwall.—Against the Government he never spoke contemptuously though sometimes warmly against Ministers, otherwise he never discovered any disposition to violence. Witness ever looked upon him as a man of superior genius—frequently feared for him that his meaning, some way or other, might be perverted to his disadvantage—He considered him as very amiable in his character.—His family, he believed, consisted of an ancient mother, a wife, a child, and a brother somewhat deranged in his mind.

On his cross-examination this witness acknowledged himself a member of the London Corresponding Society—was present at all the noticeable Meetings at the Globe, Chalk Farm, &c. &c.—wrote a paper, called Reform better than Revolt, ending with the words “ Tyrants! Tyrants! Tyrants!—had seen Hodson (one of the accused persons not in custody) the day before—had himself acted in the character of a Secret Committee-man since the late apprehensions, in concert with Burks—did assist in a paper, called Reformers no Rioters; concluded, however, by saying, that he never thought of any harm entertained against Government, or he should have thought it his duty to have given information before a Magistrate.

— *Clark*, surgeon, gave Mr. Thelwall a good character.—Witness attended no political societies.—Knew Mr. Thelwall at the Medical Society, always conceived him to be a peaceable man.

G. Wilson, surgeon, had known the prisoner from a child. Spoke of his domestic character in the highest state of pene-
neric.

Questioned by the prisoner.—Had known him in situations of extreme distress, labouring in his literary occupations to maintain a mother, a wife, &c. out of 50l. a year. Never heard a whisper to discredit him.

Here ended the whole evidence brought forward on this case.

At the close of which, Mr. Gibbs in a short but very able speech, addressed the Gentlemen of the Jury in behalf of the prisoner. He observed, that he had no more conception that he was to speak on that case that day, than that he was to speak to the case of any other prisoner that might be tried. He had had no time for preparation; he had not even time to look back at the evidence. He had only some faint recollection of a case similar to that which was formerly described by his Lordship in his charge to the Jury; a case, which from the immense mass of evidence contained in it, was more likely to overpower the mind the second time it was considered, than it was the first. His observations should be very few and general; and that he might not be included among the number of innovators, he should not attempt to state the law on this case, but should leave it to be stated by the Court. He should only observe, that the commission under which the Court sat, had only a jurisdiction to try persons charged with that branch of High Treason—the compassing and imagining the death of the King.

Mr. Gibbs paid many compliments to the abilities and exertions of Mr. Erskine, without whose assistance and support he must have sunk under the load that was cast upon him.

He observed strongly on the evidence that had been adduced against Hardy and Tooke; that these two persons had been considered as the leaders of two Societies by the Gentlemen on the part of the Crown, when it suited their purposes; but two Juries had found that their intentions had been perfectly innocent, and yet those who had been considered as the underlings, were still to be prosecuted on the same evidence. There was no doubt but that Hardy and Tooke had participated in many measures of the London Corresponding Society, and of the London Constitutional Society; and those measures had been produced against the Gentleman at the bar, though he was not a member of those societies during a great part of the time when those measures were adopted by those Societies. He

compared Hardy and Tooke to the Generals of two armies, and that after it was certain that the Generals did not mean to march to a certain town, still it was supposed that their soldiers did. It was supposed by those who prosecuted for the Crown, that after the two ringleaders of those Societies had been acquitted, that still the underlings and those who were guided by them in all their conduct, entertained different views from their leaders, and that they were more guilty than them.

The learned Counsel then adverted to spies that had been produced on these prosecutions.—He asked the Gentlemen or the Jury what reliance they could have on the testimony of such a man as John Taylor, who had lately been convicted of felony. He was married a second time by licence; and therefore he must have made an affidavit that he was an unmarried man, though the fact was that he was married.

On cross-examination, Taylor declared that he had never gone by an other name than that of Taylor, and the learned counsel said that he believed him, and thought he must have been misinstructed when he was told that he had gone by a different name. He had produced two witnesses, who had expressly proved that he had gone by the name of Roberts. Mr. Philips, one of these witnesses, did not know all the time he lodged in his house, which was about three quarters of a year, that he had ever gone by any other name than that of Roberts. It was certain he was the man, for Philips had visited him in Newgate; and as Taylor had committed perjury, so he wished to commit subornation of perjury, by persuading that witness to swear that he went by the name of Taylor when he lodged in his house, though he never knew him go by that name during the whole time. He was certain that when the gentlemen of the Jury had fully considered this case, they would see the evidence against the gentleman at the bar was infinitely weaker than it was against some of those who had been acquitted by a Jury of their country.

FOURTH DAY.

Thursday, December 4th.

The court met this day at nine o'clock.

Serjeant Adair rose, and said, that it was now his duty to

observe on the whole of the evidence laid before the court and the gentlemen of the Jury. This was the most important part of his duty, as it was necessary that he should make the case as plain as possible to the understanding of the Jury, as it was equally important to the ends of public justice as to the unfortunate gentlemen at the bar, to shew whether he was or was not guilty of the heavy crime charged in the indictment. His learned friend, Mr. Erskine, had admitted that the prosecution on the part of the crown, had been hitherto conducted with liberality and honour by those with whom the learned serjeant was acting.

He thanked him for the compliment, and in speaking now to evidence, he would endeavour not to submit any thing that should entitle him or any man to change that opinion of these prosecutions. His learned friend, Mr. Erskine, in his opening speech, had thought fit, with his accustomed zeal, and with a considerable share of asperity, which the circumstances in his mind of the case did not require, declared that he could not contain his indignation, to see an accusation brought forward against a friendless man, of which Mr. Hardy and Mr. Tooke were acquitted, who were principal actors in the proceedings. But the learned serjeant said, he would appeal to him and to the court, to whom he was known, if there were any thing in the temper of his mind, or in his conduct, that justified any man in saying that he would wantonly oppress the unfortunate gentleman at the bar. He would appeal to the court and the Jury, if any thing occurred in the conducting of this case that warranted any such imputation.

Much of the evidence against the persons acquitted was proved in the present case, and he would strenuously deny what had been advanced by the counsel for the prisoner, that much of the evidence, which in his opening speech he said he would bring forward, had not been touched. He warned the Jury not to be led away by such arguments, for it was necessary for them to become acquainted with the views of the prisoner at the bar, to have much of the evidence brought forward on former trials produced, as it formed a link of the general conspiracy. But he did not call for a verdict against the prisoner, except on a full and fair view of the case the Jury found that it personally attached to the prisoner.

He would not in the present case follow the example of his learned friend, as he would promise nothing that he did

not mean to perform. He would not content himself with general observations, but would go through the whole of the evidence. Instead of conducting himself so, the counsel for the prisoner observed on very few of the circumstances which occurred in the evidence produced. He would not follow him in this, neither would he observe on the whole of the matter of his very energetic and eloquent speech, but should endeavour to take notice of the most material points on which he touched. He would reduce the whole of the observations and evidence under their present heads, and would apply them according as they occurred, or appeared applicable to the case before the court.

Speaking as to the general observation, his learned friend said, that the Jury should not judge of the law, but the matter of fact. To this opinion he clea fully subscribed, for the Jury were not bound to take any thing authoritively as to the law but what came before the court. Mr. Erskine had stated one point to which he would agree, that if any thing would endear the Constitution more than another to the people, it would be the fair administration of public justice. This was true, and this it is that makes Britons venerate that Constitution and those laws, whereby the hair of a man's head dare not be touched without a specific charge stated against him, being proved to the satisfaction of a Jury of his country. He trusted, therefore, that the truth of this proposition would have due weight, and give the lie to every wicked insinuation, that the laws were not fairly and justly administered. It would have due weight with those acquitted, and others who have been deluded by the insinuation, that Britons were no longer free. The people, he hoped, would benefit by the mercy manifested in the criminal law, and he hoped that it would make a due impression on the public mind. Whether it had this effect or not on one of the persons acquitted, and who appeared before the court, the Jury would discover. If the Jury did not clearly and distinctly perceive that the acts charge against the prisoner were not clearly proved, he did not call on the Jury to convict him. He did not call for conviction on general assertion, nor on general evidence; he required it not, except the acts followed up by the prisoner brought against him the precise charge.

The learned Counsel for the prisoner said, that you must charge the death of the King in the Indictment; this was true; that this is the species of Treason laid in the Indict-

ment was also unquestionably true. The acts which constitute Treason are as various as the wicked machinations of those concerned are different. As to the Convention, that was pronounced no crime; but this rested with the Gentlemen of the Jury; and it was not now his business to enquire how far it was or was not a crime, agreeable to the evidence given to the Court and the Jury. The Indictment goes farther than the bare mention of a Convention; it states in a subsequent overt-act, that it was intended for the purpose of acting against the will of Parliament, and thereby to depose the King, and alter the form and rules of Government.

The learned Counsel said, that they would not stand on the law but on the fact; and here the learned Serjeant said, that he would assert with confidence, that the prisoner, with others, did meet and consult for the purposes of High Treason. The Indictment charged that they had procured arms for the specific purpose of deposing the King by force; and it was expressly stated in William and Edward, that if every other overt-act charged had failed, this alone was sufficient to constitute High Treason. If therefore arms had been provided for the purpose of deposing the King, and subverting the form and rule of Government, it signified not whether the object was to be attained by a Convention or otherwise.

In the speech made by Mr. Gibbs, in speaking of the act of Ed. III. he wished to drop the second treason mentioned. And what was the inference which he wished to draw, that this Government could last for 200 years, in which it was not treason to depose the king. The treasons mentioned in that act are incorporated in one, and the law is, that to compass to depose the King is treason. His learned friend who spoke first in behalf of the prisoner, had attributed to the learned Serjeant, that he introduced a great deal of matter in his opening speech which he did not bear out by evidence; but he appealed to the Jury if he did not, paragraph, by paragraph, and paper by paper, produce evidence agreeable to every assertion he had made in his opening speech on behalf of the crown. He had, he said, brought forward the evidence fully to his satisfaction, and he was resolved not to depart from it in his reply.

His learned friend had stated, that he was embarrassed to discover how the prisoner could be put to his trial on charges of which four other gentlemen, equally implicated, had been

acquitted. He had approved of the honourable conduct of the Attorney General, and every person in the Court must join in approbation. The learned Serjeant said, he bowed with reverence to the verdict of his country, and it would ill become him, after they been acquitted, to attribute to them guilt, but he was firmly persuaded that there was not a man in the kingdom who was not convinced that a conspiracy did really exist to depose the King, and subvert the government. But it was his duty to state why some had been detained and others discharged. The Attorney General, on an aggregate view of those materials which he had to produce against the gentlemen acquitted, found that they so nearly corresponded with the evidence brought forward against Mr. Tooke and Mr. Hardy that he did not wish to take up the time of the Court, or give it more trouble, in deference to the verdict already obtained on their trial.—It was incumbent on him to shew on what grounds this case stood different from the other trials. He would follow in this particular the learned Counsel, who spoke more of former trials than that which at present occupied the attention of the Court and the Jury. The grounds of the present case were essentially different. The evidence brought against the prisoner was distinct from what was brought forward on former trials. It proved the existence and perpetration of the crime charged, which was brought home, he insisted, by distinct evidence.

It had been observed that he spoke four hours and a half. He had to apologize to the Court and the Jury for the patience they had manifested. But it was not an unreasonable proposition to advance, that the great body of evidence produced, and the importance of the cause, did not suffer it to be placed in a narrow compass.—The Court and the Jury were judges if he departed from the cause, or was irrelevant or impertinent in his remarks. Had he stopped short and satisfied himself with bringing forward alone the evidence which had been produced on former trials, the Jury must then have acquitted the prisoner, because he rested satisfied with stating facts which did not convict others, or implicate them in matters with which they were charged.

A great portion of the evidence applied to shew the general view and intention of the prisoner, and those with whom he associated. It was material to investigate the characters of this particular body of men, among whom he became an active leader, whether they are innocent in their intentions,

or, as the indictment states them, to be guilty. Each of these cases, he insisted, stood as distinct and separate as any two indictments that ever were tried in a Court of Justice. It was necessary to discover whether he, the prisoner adopted the criminal views of those with whom he had acted ; thus far the learned Serjeant said, he had produced evidence, and it would be irregular to have gone a jot further.

His learned friend was not so scrupulous ;—he had had recurred to a great deal of evidence that had occurred on former trials. But though six of the Jury served on the trial of Mr. Hardy, yet not a syllable of evidence on that trial could now be taken in cognizance on the present. They were now a distinct Jury on a distinct cause, and should decide accordingly.

It had been insinuated by both his learned friends, that if Hardy was innocent, Mr. Thelwall was so too ; but it must be recollected, that the defence set up for the former by these learned gentlemen was, that Hardy was a plain ignorant tradesman, and knew no more about what he signed than the pen in his hand. But while the counsel for the crown was condemned for bringing forward witnesses against the prisoners, who were implicated in his proceedings, he was surprised not to have seen an half hundred of the London Corresponding Society appear to prove the innocence of Mr. Thelwall. But his counsel acted prudent and cautious in not doing so, and brought forward Citizen Parkinson alone, as so called by the prisoner, on whose evidence the learned Serjeant made many observations.

He next adverted to the letter of Norwich—the members of that Society were plain men ;—they knew not the object of the London Corresponding Society, and asked them if it were its intention to pluck up Monarchy by the root, and place Democracy in its stead. This was the construction put on their proceedings by their own friends, that they “ meant to pluck up Aristocracy by the roots.” It was not therefore the double construction on their proceedings by the crown lawyers, for the letter was convincing evidence, that their object was to depose the King, and subvert the rule and order of Government.

The learned Serjeant after having particularly dwelt on the letter of Mr. Thelwall to his friend in America, said he could not conclude without noticing what fell the last evening from his learned friend (Mr. Gibbs) “ that the Jury should be regardless of the frowns of power, and acquit the

prisoner, when they would have the acclamations of their countrymen.”

Mr. Gibbs interrupted Serjeant Adair by saying, that the words imputed to him he had never used, and that they were a disgrace to any man ; the words he used were—that the Jury by their Verdict would receive the thanks of their country ;—he never mentioned the word *ACQUIT*.

The learned Serjeant was satisfied with the explanation, which he was happy he provoked, as it had given Mr. Gibbs an opportunity of convincing him there was an error in what he conceived.

He added, that what had just occurred had reminded him of a matter on the subject of Juries, which had appeared in the evidence, not to be passed over—this was the affair of the medals that had been struck, in order to present to twelve Jurymen, who, in a case of prosecution for a seditious libel—a measure thus taken by the very party who are involved in the present case, as if purposely to poison the pure channel of British Justice at the fountain head !

But Juries in this country are not composed of materials so as to be influenced—As convinced am I, said the learned speaker, as I am of my own existence at this moment, that the Gentlemen I am now addressing have that value for the cause of truth, that they will look through every thing that has been said on this trial with a view to influence their minds though said fairly in the way of argument, up to the evidence which has been given, and on that alone will they decide with Justice, and as I set out with saying, that if doubt for a moment exists, let them incline it to Mercy !

The Lord Chief Justice then proceeded to charge the Jury ; in doing this he went through the whole of the evidence which had been adduced, and first that on the part of the prosecution, in the course of which laborious task he commented with his usual candour and ability on every material passage, pointing out with precision where he conceived the charges weakly supported, and where more strongly ; he was careful to distinguish between what attached generally to the societies with which Mr. Thelwall had acted, and that which was supposed to press more closely to himself. In doing this he necessarily re-trod much of the ground he went over in the former trials. Such new evidence as occurred, which applied more immediately to Mr. Thelwall's case, he simply

re-capitulated nearly in the words in which we have stated it, reserving his particular observations till he draws towards a close.

The Court adjourned at nine o'clock.

FIFTH DAY.

Friday, December 5th.

When the Court met, the *Lord President* proceeded in his charge. He recapitulated the testimony of Messrs. *Kydd, Horne Tooke, Bonney, Harwood, Cline, Parkinson, and Wilson.*

He observed, that the evidence of John Taylor was rendered unsatisfactory by testimony of two persons, Topham and Phillips, who had directly contradicted his assertions upon oath, that he had never gone by any other name than that of Taylor. This most undoubtedly, he said, must materially affect the evidence of Taylor: to what extent it should affect it, was for the Jury to judge, as the contradiction did not affect his competency, though it certainly militated against his credit. On all disputable points it ought to have a very extensive effect on his evidence; but were confirmed by other witnesses, there seemed to be no reason for not giving credit to him — It was entirely for the Jury to determine how far this had been the case, and what degree of credit they could give to the evidence of such a man. After the evidence had been recapitulated, the Chief Justice proceeded to make some remarks on the whole of it, as follows:

This, Gentlemen, is the whole of the evidence on the part of the prisoner, which has been given in a manner well calculated to make an impression on you, and it certainly deserves to have great weight with you. The evidence being brought to a conclusion, you will soon have to discharge that part of the duty allotted to you in this momentous case. I shall not trouble you at great length:—the law, or the case, seems to me to be sufficiently clear: it is decided, by all authorities, that a person who undertakes to overturn the Government of the country, and to depose the King, certainly must have in view the destruction of the King: this has therefore been considered as a mani-

felt overt act of compassing and imagining the death of the King.

The real question is a question of fact. My opinion is, that the substantial overt acts charged in the indictment are the first and the second, which say that they conspired to call a Convention for the purpose of overturning the Government, and published certain writings to stimulate the minds of the people to a disaffection to the Government. If the first be proved, it is sufficient; for though there are nine counts in the indictment, yet any one of them, substantiated, will prove the indictment. The late events seem to have laid out of the question the two next overt acts. As to the remaining five, supposing them to be well laid as to form, in point of evidence the matter of them seems to me to be circumstances belonging to the conspiracy, rather than independent overt acts of the treason charged.

That the prisoner has participated in the general design of raising a Convention is clear. For what purpose that Convention was to be called, is the question you are to determine; and this is a pure matter of fact, and must be proved by those who conduct the prosecution; it lies wholly on them to make it out; they say, they can do so. You will, therefore, turn your attention to the circumstances of the evidence: they principally arise out of the written transactions of the London Societies, and the different Country Societies with whom they were associated. These transactions have been laid before you at considerable length; you have heard them uniformly read to you several times, and commented on more than twice: a few more observations must be made to them. By way of preliminary, I shall say to you, as I have said on a former occasion, that in looking into these transactions, and discovering a variety of violent and indecent expressions, you ought not to proceed in your judgment on any nice criticism, nor adopt any conclusions which are to be derived from subtle and refined observations on particular expressions.

Men express themselves with more or less accuracy according to their various attainments in the knowledge of the niceties of language, and the difference in their temper at the time of composing their writings. You ought not therefore to draw from critical examinations of particular expressions to the prejudice of the prisoner.

In animadverting upon the Address to the Convention, his Lordship asked, why had Joel Barlow been employed to

draw it up—he whose Republican principles they could not have been ignorant of? When the Societies spoke of the Convention that they intended to assemble, they hinted that it would ease the people of all their grievances under which they laboured. Under this head they had included the Aristocrats, the Bench of Bishops. Now, whether a Convention assembled for the purpose of obtaining a Parliamentary Reform, or any Convention, except such a one as the National Assembly of France, could give redress of this kind, it was for the Jury to consider. At the latter end of October, 1793, the prisoner had become a Delegate of the Corresponding Society; but before this time he had been active in the Southwark Society, the Address of which went a great way to justify the prosecution, in saying the Society adopted Mr. Paine's principles of active Citizenship and Representative Government. These terms and ideas bore too plain an illusion to Paine's works. The Societies had clothed their opinions in the writer's words. His Lordship noticed the proceedings of the British Convention. It appeared to him that they were preparing themselves to usurp all the powers of Government. Their conduct was an alarming exhibition of the practical result of those principles which the Societies inculcated. Parliamentary Reform was only a colour to their real intentions, as the prosecutions had, not without reason, maintained. Every thing but Parliamentary Reform was discussed by them. This, he thought, was the strongest part of the case of the prosecution. Organized as the British Convention had been, it was a subject of very serious alarm to the Government. At this period men would say, "Why do these Societies encourage all manner of attacks against the Monarchy? Why do they irretate, by all possible means, the public mind against the Legislature? Why make use of that cumbrous machine, the British Convention, swelling daily into great magnitude, unless they meant to overturn the Constitution? When the project of a Convention was talked of in England, the Societies began to assume a bolder tone of language. Great pains were again taken to irretate the public, and the prisoner was very active about this period in the Societies. At the same time the project of arming the Societies was also agitated, and pikes and other arms had been provided in small quantities. Societies had been instituted for the purpose of learning the use of arms, and this in the greatest privacy. The lectures and extraordinary con-

versations of Mr. Thelwall were held at this time, if the witnesses were to be believed.

When all these circumstances were taken together, what could the public imagine? They would ask, did these gentlemen conduct themselves like persons wishing for a Parliamentary Reform, or a Revolution? He had looked with concern during these trials, for a satisfactory answer to this question, and he was very sorry no such answer had been given. From the want of it arose the chief imputation upon the Societies.

If their intentions had been good, they might without much difficulty have shewn them—An answer had certainly been given, and with some degree of indignation. In this there was a good deal of useful management; for when one had a weak defence to make, nothing was better than to appear bold upon it. This answer was, that the proceedings of the Societies might have been impudent, and even criminal, but they did not manifest a design to overturn the Constitution. The best way of putting the case for the prisoner was, that unless their conduct manifested the precise purpose of overturning the Government, they could not be guilty of High Treason.

His lordship remarked with astonishment the infatuation and enthusiasm of some persons who had been examined on the part of the prisoner. Young Edwards said very coolly, that he armed himself lest the Hessians might enter the interior of the country without the consent of Parliament.—Mr. Kyd, a Barrister, a man to whom persons were to look up to for advice in cases where their property, and even their lives, were at stake, swore that he thought the proceedings at the Globe Tavern were perfectly peaceable. Mr. Parkinson was of the same opinion. Good God, how could the minds of any men have been so far perverted. Eaton, and the foreman of his Jury, had been proved to have been together on the day ordained as a public fast, ridiculing the ordinances of the public authority. These men, however enthusiastic, might be entitled to credit as to the facts which they related. They all confessed that they had one common object, Parliamentary Reform, founded on Universal Suffrage and Annual Elections. Men of the first talents and judgment in the country had disapproved of such a Reform; they knew it would destroy the country by bringing it down to Republican principles. It was extraordinary, that, amidst all this mass of written evidence, no one declaration of loyal-

ty to the person of the King, or attachment to the Constitution, had appeared among the papers of the Societies.— They had not, it was true, renounced their original object, Parliamentary Reform: if they had done this, they would have been quickly deserted and abandoned by the greater part of their friends, as his Lordship was of opinion that the multitude who composed them had no bad intentions against the Constitution, whatever the leaders might have had. Tooke had said in evidence, that he thought the one third of Paine's book was bad, and that he had marked the passages. Why then had Mr. Tooke published the whole? Why had he not given to the public an antidote against the poison? He stated, that he had, personally, good reason to rejoice in the downfall of the old Government of France. This was not a reason to justify public conduct, such as the Address to the National Convention. The circumstance of Joel Barlow writing this Address, loaded it with much suspicion. The evidence in favour of the prisoner's character was very material. Considering that he was a good private man, a man of letters and education, and, above all, a British subject, his Lordship could not help blushing for him.—His character was one of those extraordinary things which puzzle the mind, the more they were examined. The strength of the prisoner's case, was the acquittals of Hardy, Tooke, &c. He was stated to have conspired with them, and they had been proved innocent. He might, however, have conspired with others not named in the indictment. If, that upon the whole of the evidence, the Jury thought the prisoner had conspired to overturn the Government, they would find him guilty; but if they were of opinion that no such conspiracy had existed; or that the prisoner was not concerned in it, supposing it to have existed, or that the matter was in either case doubtful, they would acquit him.

As soon as the Jury withdrew, which was at twelve o'clock the Lord president observed, that the Court had been insulted on the former trials, by the improper behaviour of the audience when the verdict had been given. He was sorry to say, he had observed a Barrister clapping and shouting on that occasion. He warned all present against such conduct, and assured them, that whoever expressed either satisfaction or dissatisfaction on the verdict, should, if found out, be sent to Newgate.

At 50 minutes before two o'clock. the Jury brought in their verdict—NOT GUILTY.

This verdict, notwithstanding the caution of the Lord President, was received with clapping, shouts, and huzzas. When the tumult of applause had subsided, Mr. Thelwall addressed the Court.

The emotions, he said, which he felt on the present occasion, could be more easily imagined than expressed. If a man like himself, destitute of wealth and friends, unconnected and isolated, persecuted with all the weight of power and calumniated by all possible means—if a man so circumstanced was declared innocent, as he had been, by a Jury of his country, must he not feel that justice was inherent in the soil of Britain.

For a twelvemonth past he had been harrassed and goaded by persons whose interest it was to drive him beyond the bounds of propriety. Irritable as he was by nature, he confessed that he had been driven into intemperence in expressions that had no other object than to give vent to the warmth of the moment. With respect to treason and conspiracy, with which he had been charged, he solemnly protested that he had not been guilty, even in imagination. He appealed to posterity; and might it, he said, pronounce his memory infamous, if this declaration was not true. As to force and violence, he had never thought of them; he left it to the Lynams, the Taylors, and other informers, who had urged them forward to appeal to violence. This, said he, taking up a pen, was my only weapon; I had an instinctive abhorrence of all violent proceedings.—He said, he hoped to see the day when those instruments of destruction, guns, pikes, &c. would be abolished, and no longer make the wife a disconsolate widow, and the unprotected child an orphan—he hoped that peace would be triumphant throughout the world.

The letter to America he did not justify. There were in it violent thoughts, expressed in bombastic terms, At a future time he would, in a legal and temperate manner, explain further his conduct to the public.

The Lord President reminded him of Mr. Holcroft, who had not been permitted to address the Court at all. Your character, said his Lordship, is now clear; be on your guard in future. You have appealed to posterity, and I hope that after this your conduct will be such as to make posterity judge of you agreeably to your wishes.

Mr. Thelwall was loudly applauded at the end of every sentence of his speech.

After *Mr. Erskine* had come away from the Court, the people, who had been waiting for him in great crowds, took the horses, as usual, from his carriage, and drew him home to his house. *Mr. Erskine* then appeared in one of the front windows, and spoke to the populace, recommending them to pay due respect to the laws, and go quietly home; which request was immediately complied with by the populace, after they had expressed their approbation of *Mr. Erskine* by loud huzzas.

F I N I S.

THE
T R I A L
O F
THOMAS PAINE,

FOR CERTAIN
FALSE, WICKED, SCANDALOUS, *and* SEDITIOUS
L I B E L S

INSERTED IN THE
Second Part of the RIGHTS of MAN,

BEFORE

The Right Hon. LORD KENYON *and a* SPECIAL JURY.

At G U I L D H A L L,

ON TUESDAY THE 18th of DECEMBER 1792:

TO WHICH IS ADDED

The Whole of Mr. Erskine's admirable Speech,

Which was above four Hours in the Delivery.

CAREFULLY REVISED AND CORRECTED.

L O N D O N :

Printed, and Sold at No. 20, Paternoster-Row; T. Wood's, Royal-Exchange; J. GREENHILL, No. 36, King-street, Westminster; and J. WEBB, No. Staining-Lane, near Goldsmith's-Hall.

PRICE SIXPENCE



T R I A L

O F

THOMAS PAINE,

A T

G U I L D H A L L,

B E F O R E L O R D K E N Y O N,

A N D A S P E C I A L J U R Y.

J O H N C A M P B E L L, Esq. Foreman.

J O H N L I G H T F O O T,
C H R I S T O P H E R T A D D Y,
R O B E R T O L I P H A N T,
C O R N E L I U S D O N O V A N,
R O B E R T R O L L E S T O N,
J O H N L U B B O C K,

R I C H A R D T U G W E L L,
J O H N P O R T E R,
T H O M A S D R U C E,
I S A A C R A I L T O N,
H E N R Y E V A N S,
M e r c h a n t s.

C O U N C I L.

F o r t h e P R O S E C U T I O N.

T h e A T T O R N E Y G E N E R A L,
T h e S O L I C I T O R G E N E R A L,
M r. B E A R C R O F T,
M r. W O O D,
M r. P E R C I V A L.

F o r T H O M A S P A I N E.

M r. E R S K I N E,
A n d
M r. P I G O T T,

S O L I C I T O R S.

F o r t h e P R O S E C U T I O N.

M e s s r s. C H A M B E R L A Y N E a n d
W H I T E,
S o l i c i t o r s t o t h e T r e a s u r y.

F o r T H O M A S P A I N E,

M r B O N N E Y.



Trial of THOMAS PAINE, &c.

The KING versus THOMAS PAINE.

THIS was a *criminal Information* filed against the Defendant, for several Libels contained in a Publication, called, “*The Rights of Man, Part the second, combining Principle and Practice, by THOMAS PAINE, Secretary to Foreign Affairs to Congress, in the American War, and of the Work entitled Common Sense, and the First Part of the Rights of Man.*”

Mr. PERCIVAL, jun. Counsel, said, this was an information against THOMAS PAINE, for that he being a person of a wicked, malicious, and seditious tendency; and wishing to introduce disorder and confusion, and to cause it to be believed, that the Crown of this kingdom was contrary to the Rights of the Inhabitants of this kingdom; and to cause it to be believed also, that the Bill of Rights was a Bill of Wrongs and Insults; all tending to bring the Government of this country into contempt, and endeavoring to cause it to be believed that the Parliament of this country was openly corrupt in the face of day; and in order to withdraw the affection of the people of this kingdom, against the Law and Constitution of this country, that he THOMAS PAINE, wishing and intending this mischief, did on the 16th of February, 1791, wickedly, falsely, maliciously, scandalously, and seditiously publish a certain book, called, Second Part of Rights of Man, signed THOMAS PAINE, containing many false, wicked, scandalous, malicious, and seditious assertions, with which he should not trouble the jury, as they would have them from the ATTORNEY GENERAL. The Defendant had pleaded Not Guilty, upon which issue was joined.

The ATTORNEY GENERAL said, the libel was so mischievous in its tendency, so extremely seditious in its nature,

and withal so flagrant, that it earned its own merits before the Court without the necessity of any animadversion. Such being the case, he would content himself with submitting to the Court and Jury, the libels as selected from the Pamphlet; but that another consideration urged him to enlarge on a subject extremely flagitious.—However, the mischiefs that flowed from so wicked a publication, were such as could not, nor ought not to be passed over in silence; there were other considerations, and those were of a personal nature, that moreover called upon him to discuss this matter more at large than probably may be deemed necessary. It was not customary with him to speak much of himself, but where his principles were misrepresented he could not remain silent. It was well known that a rumour had been circulated with no small share of industry, declaring that the present prosecution was not agreeable to his private opinions, and that taking the subject in this light, he did not prosecute the author for the First Part of the Rights of Man.

It was further said, that he connived at the publication, because he conceived that the doctrines contained therein should not be interrupted in their circulation. This report he wished to refute.—And he solemnly averred, that if this were his opinion, that he was unworthy to hold his present official situation and deserved to be expelled from Society.

He observed, that the publication in question was not the First of the kind which this defendant had sent forth into the world. He had published what is called the First Part of the Rights of Man, which, though it was extremely reprehensible, he had overlooked, on this principle, that he did wish to prevent any kind of speculative discussion from coming under the public eye.

The First Part of this work was ushered into the world under circumstances which did not excite alarm; the sale was confined to the judicious and intelligent, who confuted the fallacy of the subject in the perusal: but when he found the most extraordinary means used to promote its circulation among the credulous and ignorant, who thought any restraint irksome, and were easily persuaded to shake off their attachment to the present mild system of Government. When he found, that, in order to poison the tender mind, the second part had been disseminated throughout the country with an unpar-

unsparing hand, and distributed gratis to every person in the Kingdom, he saw the object, and his alarm consequently ensued. As long as it only fell into the hands of intelligent people, he said, he was not afraid; but how could he longer resist enquiry, when he discovered that sweetmeats were actually wrapped in the motley production, that children should study the RIGHTS of MAN. The Author of the Work, from the means he used to disperse his wicked doctrines, must have mischief in view, else he would have been satisfied with a fair and more creditable circulation. In bringing the Author before the Court, he did only what his duty required, and what his love for the tranquillity of the country dictated. He had put a charge on the record in the Work, the merits of which it was the duty of the Jury to try.

He should next state to the Gentlemen of the Jury, what he thought the intentions of the Author were, and they would afterwards examine whether his description were just or not. They would deliberately examine, and judge accordingly. The intention of the libellous matter in the information was, by an impudent dogma, to degrade and villify, and to bring into abhorrence and contempt, the system of Government under which we live, and the establishments of this country in Church and State.

It was to persuade us that the great Revolution of 1688 was merely a cabal of interested Courtiers; that the Bill of Rights, was a Bill of Wrongs, and which conferred on the People only the right of petitioning. The Attorney-General imputed to this book every thing that was mischievous, besides every wicked insinuation that tended to make the People dislike the happy Constitution under which they lived. It boldly insinuated that the Constitution was not a progression of Liberty, but of Tyranny.—The book was written in a style suitable to the lower order of the People, and artfully managed to make them disaffected to the Government, and of course promoters of Sedition. How far it had operated on the credulity of the Public, the Gentlemen of the Jury were well convinced; that he had represented the Regal part of the government of this country, bounded and limited as it was, as an OPPRESSIVE and ABOMINABLE Tyranny; that he had represented the Legislature of this kingdom as a direct Usurpation. With respect to the laws, they, without
single

single exception, were founded on this usurpation, or, to use his own words, there was little or no law in this Country. Thus it was held out to a Community, consisting of ten or twelve millions of people, that there was no law that bound them, except those obligations which arose from Morality and Religion.

Were we indeed to follow these doctrines? Were we to fall into a lawful banditti? Were we to be reduced back again into a savage state of nature, where man was the enemy of man, where all his faculties were useless, except strength and cunning? Where we to return to this state? The Jury knew what the answer was to these questions. What was to be said to a man who would thus, with a general sweep take away all law, or the force of all law, by asserting that all laws which had been hitherto made, are null and void; this sort of artifice was very gross, it was true, but it did not appear so to those who could not detect the artifice. Objections too were started in this book to *Monarchy*, in general terms, without one word being said of its advantages. The power of the *Aristocracy* was objected to, but not a word was said about the *Democratic* part of our Constitution. It was well known that England had a powerful Democracy, but not a word of that, because it would not make the lower classes of the people discontented; this was the common artifice; an artifice so very shallow, that some people might wonder perhaps at the success of it; but to whom were these things addressed? To the ignorant, the credulous, and the desperate—the latter were literally the enemies of all government, order, or regularity; every restraint was irksome to them, and nothing was so plausible or convincing to them, even upon the point of propriety, as to inform them we shall have no government at all; the others were easily to be imposed upon, and made the dupes of the crafty and designing, who might chuse to deceive them,

He apprehended it to be no difficult operation of the human mind, to distinguish reasoning from a deliberate design to withdraw men's minds from the Constitution; it was done by the operation of good sense, and not difficult for a Jury of the City of London. They would observe, whether the whole of the book was not calculated to convince the sober part of mankind, or to produce disaffection,

to inflame passions instead of reasoning with the mind. He knew of no circumstance that could leave a doubt in the mind of the Jury as to what was passing in the heart of the Defendant, at the time he penned this publication.

He conjured the Jury to declare before God and their country, whether it was not calculated to withdraw the allegiance of the people at large from the Government of this country, and to subvert the Constitution, which had been growing ever since the invasion of JULIUS CÆSAR, and gradually improving till the Revolution, when it burst forth in its meridian splendour.—Since that period, to the present day, it continued in the same progressive state of improvement, and is the best and most perfect system of Civil Liberty that ever was enjoyed by man; combined with that vigor and energy of Executive Government which is absolutely necessary to maintain and uphold the whole fabric, which has been reared by the aggregate wisdom of ages.

The indecency with which Monarchy was treated was quite shocking, and the conclusions in that work, upon that topic, discovered that the Author was destitute of knowledge, as to the various provisions, and wise ones too, which the law made in that particular. Here the learned Gentlemen entered into an historical detail of the various permanent Councils for Minor Kings, Regents, Hereditary and Official Advisers, &c. &c. of the Throne, in various cases of necessity; so that the provisions by law were such, that no material inconvenience could be sustained by the public on account of the Monarchical system—a system which Mr. PAINE had been pleased to say was such, that a case might occur where there would be a compleat chasm in that branch of our form of Government. The truth was, that our Constitution was the best upon earth, and that for the plainest and the clearest reason—it had had longer time for melioration than that of any other in the world. Seven hundred years ago, Freedom was its basis. From the days of Julius Cæsar it had from age to age been improved, until it was completed at the Revolution.

He thought it necessary, for the benefit of the Public, to select but a few passages from this wicked work, rather than clog or encumber the Record with too many recitals, which could

could be produced in abundance. He therefore proposed to take them in their order, as selected:

The first passage is be found in Page 21, large edition, and is in these words :

“ All hereditary Government is in its nature Tyranny, An heritable Crown, or an heritable Throne, or by what other fanciful name such things may be called, have no other significant explanation, than that mankind are heritable property. To inherit a Government, is to inherit the people as if they were flocks and herds!”

Now who was the tendency of this? To destroy all subordination and submission to the law. It was neither more nor less than this; to hold out to the people of this country, that they were Slaves; this was one of these short, ready-made propositions, which if a man believes, he must say, “ I can hear this no longer.” As to the King’s inheriting the people, that was a piece of sophistry; he had no inheritance in the people: his inheritance was his office, and that was an office under the law.

The next passage is in page 47.

“ This Convention met at Philadelphia in May, 1787, of which General Washington was elected President. He was not at that time connected with any of the State Governments, or with Congress. He delivered up his Commission when the war ended, and since then had lived a private Citizen.”

“ The Convention went deeply into all the subjects and having, after a variety of debate and investigation, agreed among themselves upon the several parts of a federal Constitution, the next question was the manner of giving it authority and practice.”

“ For this purpose they did not, like a Cabal of Courtiers, send for a Dutch Stadtholder or a German Elector, but they referred the whole matter to the sense and interest of the Country.”

What

What was this? Why the whole was written for the sake of introducing a sneer against a Dutch Stadtholder and German Elector; this discovered the temper of the man; but it was another dogma or ready-made proposition, without the least deduction.

Another passage is to be found in page 52.

“ The History of the Edwards and the Henries, and up to the commencement of the Stuarts, exhibits as many instances of tyranny as could be acted within the limits of which the nation had restricted it. The Stuarts endeavoured to pass those limits, and their fate is well known. In all those instances we see nothing of a Constitution, but only of restrictions on assumed power.

“ After this, another William descended from the same stock, and claiming from the same origin, gained possession; and of the two evils, James and William, the nation preferred what it thought the least, since from circumstances it must take one. The Act called the Bill of Rights comes here into view. What is it but a bargain which the parts of the Government made with each other, to divide power, profit, and privileges. You shall have so much, and I will have the rest; and with respect to the nation, it is said for your share, you shall have the right of petitioning. This being the case, the Bill of Rights is more properly a bill of Wrongs and of Insults: as to what is called the Convention Parliament—it was a thing that made itself, and then made the authority by which it acted. A few persons got together and called themselves by that name. Several of them had never been elected, and none of them for the purpose.

“ From the time of William, a species of Government arose, issuing out of this Coalition Bill of Rights; and more so, since the corruption introduced at the Hanover succession, by the agency of Walpole; that can be described by no other name than a despotic legislation. Though the parts may embarrass each other, the whole has no bounds and the only right it acknowledges out of itself, is the right of petitioning. Where then is the Constitution either that gives or restrains that power?

“ It is not because a part of the Government is elective, that makes it less a Despotism, if the persons so elected, possess afterwards, as a Parliament, unlimited powers. Election, in this case, becomes separated from the Representation, and the candidates are candidates for Despotism.”

Thus this Author would have us believe, that, from the days of the Edwards and the Henries, up to the Stuarts, we had nothing but Tyranny; and the Bill of Rights, it seemed, was a Bill of Wrongs and Insults. Who was so infatuated as to believe all this? Who among us was ignorant of the character of that great founder of our jurisprudence, Edward the Third. And as to the Bill of Rights, strangely must that heart be constituted, which had not a grateful reverence for the memory of those who procured it. But as eulogium would be lost on that bill, let it speak for itself. Here he recited almost the whole Bill of Rights.—Such was the Bill of Wrongs and Insults—he would not profane it by a comment.

The next passage was in page 56—

“ The attention of the Government of England (for I rather chuse to call it by this name, than the English Government) appears, since its political connection with Germany, to have been so completely engrossed and absorbed by foreign affairs, and the means of raising taxes, that it seems to exist for no other purposes. Domestic concerns are neglected; and with respect to regular law, there is scarcely such a thing.”

Here was a reflection of the most wicked sort on the government of this country, and an invitation to the people to rebel, by telling them there was scarcely such a thing as law in England.

The next passage was a note in page 63—

“ With respect to the two Houses, of which the English Parliament is composed; they appear to be effectually influenced into one, and, as a Legislature, to have no temper of its own. The Minister, whenever he at any time may be, touches it as with an opium wand, and it sleeps in obedience.”

“ But

“ But if we look at the distinct abilities of the two Houses, the difference will appear so great, as to shew the inconsistency of placing power, where there can be no certainty of the judgement to use it. Wretched as the state of Representation is in England, it is manhood, compared with what is called the House of Lords ; and so little is this nick-named House regarded, that the People scarcely enquire at any time what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the Nation.”

The next passage was in page 107 and 108:—

“ Having thus glanced at some of the defects of the two Houses of Parliament, I proceed to what is called the Crown, upon which I shall be very concise.

“ It signifies a nominal office of a million sterling a year, the business of which consists in receiving the money. Whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every Minister acts upon the same idea that Mr. Burke writes, namely, that the People must be hood-winked, and held in superstitious ignorance by some bugbear or other ; and what is called the Crown answers this purpose, and therefore it answers all the purposes to be expected from it. This is more than can be said of the other two branches. The hazard to which this office is exposed in all countries, is not from any thing that can happen to the man, but from what may happen to the Nation—the danger of its coming to its senses.”

The next passage was a note in page 116:—

“ I happened to be in England at the celebration of the centuary of the Revolution of 1688. The characters of William and Mary have always appeared to be detestable ; the one seeking to destroy his Uncle, and the other her Father, to get possession of power themselves ; yet, as the Nation was disposed to think something of that event, I felt hurt at seeing it ascribe the whole reputation of it to a man who had undertaken it as a job, and who, besides what he otherwise got, charged 600,000*l.* for the expence of the
little

little fleet that brought him from Holland.—George the First acted the same close-fisted part as William had done, and bought the Dutch of Bremen with the money he got from England, 250,000*l.* over and above his pay as King; and having thus purchased it at the expence of England, added it to his Hanoverian dominions for his own private profit: in fact, every Nation that does not govern itself, is governed as a job. England has been the prey of jobs ever since the Révolution.”

The last passage was in page 161 :—

“ The fraud, hypocrisy, and imposition of Governments, are now beginning to be too well understood to promise them any long career. The farce of Monarchy and Aristocracy, in all countries, is following that of Chivalry, and Mr. Burke is dressing for the funeral.—Let it then pass quietly to the tomb of all other follies, and the mourners be comforted.

“ The time is not very distant, when England will laugh at itself for sending to Holland, Hanover, Zell, or Brunswick, for men, at the expence of a million a year, who understood neither her laws, her language, or her interest, and whose capacities would scarcely have fitted them for the office of a parish constable. If Government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England.”

Thomas Haynes was the first witness called on the part of the prosecution; who said he had bought the second part of the Rights of Man on the 20th. of February last, at the shop of Mr. Jordan, No. 166, Fleet-street.

Thomas Chapman said he was a printer, and knew the defendant Thomas Paine. He was introduced to Mr. Paine by Mr. Thomas Christie. He was introduced as a printer, to print some books. In the year 1791, he printed the First Part of the Rights of Man; he also printed part of the Second Part of the Rights of Man, to wit, to page 112 (H.). He had the manuscript in his own possession to p. 146, and had composed as far as 140. But when sheet (I) came into

into his hands, upon examining it, part of it appeared to have a dangerous tendency. He then determined in his own mind not to proceed with the work. He wrote a short note to Mr. Paine, for that purpose, and it was with a degree of reluctance that he did it, owing to the civilities he had received from Mr. Paine. An accident, however, occurred, which made this business easy. About the 16th of January Mr. Paine called on him. An observation was made by Mrs. Chapman, at which Mr. Paine was greatly offended, and said he had not been so much affronted in the whole course of his life. Mr. Paine told the witness he wished to settle with him. He called on the witness next morning, and made many apologies for what he had said; and wished him to go on with the work. But the witness would not, as he thought a part of it had an evil tendency. He made three separate proposals to Mr. Paine during the publication of this work; first, he offered him 100g. for the copy; 2dly, he offered him 500l. and thirdly, he offered him 1000 guineas. He answered, as he intended to publish a small edition of the work, that he wished to reserve it in his own hands.

The witness said he had seen Paine write, and thought he should know his hand writing. He looked at several letters signed Thomas Paine, and believed they were the hand-writing of the defendant. One of these letters empowered Mr. Jordan of Fleet-street, who was the publisher of this work, to declare that if any person enquired who was the author of the work, to say, that he, Paine, was the author. Others of these letters were orders to Mr. Chapman to deliver copies of the Rights of Man to Mr. Jordan.

John Perdue said, he was formerly acquainted with Mr. Paine when he was in the Excise, and before he went to America. A letter was shewn him, which Paine wrote to Archibald M'Donald, Esq; his Majesty's Attorney-General. The witness said, he believed it was the hand writing of Mr. Paine. This letter was dated Paris, Nov. 11, first year of the Republic. There were passages in this letter, reflecting on the Royal Family of England.

The Evidence being finished on the part of Prosecution, Mr. ERSKINE objected to this letter being read in evidence, as it was not relevant to the subject of the present trial. My

Lord, said he, the Attorney General states, that it contains a Libel of the most atrocious kind against his Majesty, and his illustrious progeny; if so, let him be prosecuted by another information.

It cannot prove any thing contained in the Second Part of the Rights of Man, nor will it be evidence whether any thing therein contained be libellous or not. The present Information charges nothing respecting this Letter, and Mr. Attorney may as well read any other work of Mr. Paine as this pretended Letter.

Lord KENYON said, he felt the force of Mr. Erskine's objection in the light which he put it, and he should certainly reject the Letter, if the Attorney-General had attempted to introduce it, either as matter of aggravation or inducement to the Jury to find the Defendant guilty on the present charge. But the Letter contained an avowal that Mr. Paine was the Author of the Book which is the subject of this Trial; and as the Attorney-General offered it only to prove this fact, he could not resist its being read.

The ATTORNEY-GENERAL then stated the substance of the Letter; which was, that he wrote to the Attorney-General as a Friend; that he had nothing to do with the Trial himself. Whatever was the event, it could effect him no other way than the increase of his reputation; that it was not his Trial, but the Trial of the English Government with the People of England; that getting a verdict against him (which, however, would be difficult, except by a packed Jury) was the same as a verdict against the Man in the Moon. That had he time when he was in England, he would have published the information, with remarks upon it, but that now he would wait until the Trial was over, and then he should have some observations. It stated, that it was possible for him to believe that Mr. GUELPH, or any any of his profligate sons, had not capacity to govern a nation. In stating this part, the Attorney-General felt great emotion; and made several suitable comments on it. The Letter then went on, stating several other particulars, together with a requests that it might be read by the Attorney-General to the Jury at the Trial.

Mr. **ERSKINE**, in an eloquent speech of three hours and forty minutes, followed:—

Gentlemen of the Jury,

In that part of the **ATTORNEY GENERAL**'s address in which he commented on the subject of a letter stated to have been received from France, he did not appear to me to play the actor, when he exhibited signs of emotion proceeding from feelings, that did honour to his nature—from feelings which animated by his duty must make him eager to express his abhorrence of the direct and scandalous attack upon the honour of his Royal Master, and upon the character of his family.

If his embarrassment was so great, and if his feelings were so deeply wounded, he will do me the justice, that mine must be equally, if not more deeply affected. In the high office which he holds, he must feel the strongest sense of duty in correcting every imputation that may be thrown on the august Personage whom he serves, but that high Personage is too far removed, too elevated above society, for the learned Gentleman to enter into those habits which beget the nicer sensibilities of the heart. I stand in the same situation with the **Attorney General**, in respect of another august and illustrious Person, implicated in the most improper manner in the forged letter which he has read; and in addition to my official situation, he has had the condescension to admit me to the honour of his friendship, and therefore I owe him, I feel for him all the duty of a grateful servant, to an indulgent master; and all the affection which man can owe to man. What then must be my embarrassment this day, I must be without feelings and without affections, if I did not experience at this moment, the most afflicting emotions. But great, though they are, they have not been able to detach me from the duty which I owe to my profession, to justice, to honour, and to my country. Gentlemen, it is the first and the dearest benefit of an Englishman, that he is intitled to an impartial trial. The Author of the *Rights of Man* would have had ample ground of detraction, if there appeared the smallest tincture of partiality in the proceedings of this Court. If the man whom he had chosen to defend him, had been intimidated by threats—had been reduced by prejudice—had been prevailed upon in any way to abandon the cause, he might have had occasion to complain. It would, indeed, be a blur and a blot on our

Constitution, if a man could say that the slightest impediment was thrown in the way of justice.

I lament, therefore, that the Attorney-General thought it necessary to read that forged letter. If he knew it to be genuine and authentic, it was his duty to make it the subject of a distinct prosecution. It has nothing to do with the present trial. I feel the impression it has made on your minds. I feel the impression it has made on my own. But I stand here as the advocate of Thomas Paine for the book that is the subject of the information, and knowing how essential it is to the character of British justice that the Bar should be free, I will still maintain what I conceive to be my professional duty as far as nature can struggle. That forged letter was admitted only under the pretext of its serving to decypher the *quo animo* of the Author in writing the book. Granting even that it be a genuine letter, which I expressly deny, it has not the smallest tendency to establish that fact. It was written months after the publication; nay, after the Author had withdrawn from his country; after a time when, from the treatment he received at Dover, he might consider himself as one expelled from his country. Granting, therefore, that the letter were genuine, it is immaterial; it is foreign to the present trial; and the Attorney-General has utterly failed in that which I contend to be essential to a prosecution, in producing evidence of the evil mind with which the Author wrote his book. No one fact previous to the publication, has he stated. Nothing to delineate the malignity, the wicked design, the seditious spirit with which the Author propagated his doctrines; nothing has he brought forward but this forged letter, written so many months after, and in such different circumstances.

The Attorney-General has said, that a rumour has gone abroad that the present prosecution has been carried on without his approbation, and he has thought it necessary to do away this impression by stating his concurrence. No one can be more ready than myself to do liberal justice to the candour, impartiality, and fairness of the learned Gentleman. I have no doubt of the integrity with which he has brought even the present action; but if he felt himself a little embarrassed by these rumours, which at best must have been heard only in a narrow circle, what must be my situation this day?
standing

standing up as I do against prejudices that have been openly, widely, generally circulated—Against imputations of the grossest and the most affecting kind—Gentlemen, you cannot be ignorant of the disgraceful means that have been taken, not merely to inflame the public mind against the Defendant, but to stamp and brand every man with the mark and reproach of disaffection to the Government and Constitution, who shall venture to hazard the slightest approbation of his doctrines. Can you go into any place of public resort, either for pleasure or business, without hearing the cry against this man—without hearing every description of persons who may be inclined to wish for the reform of certain abuses in the administration of Government, confounded into one band of desperate destroyers of the Constitution? Can you go into any of these places without seeing the newspapers filled with the most direct attacks upon my character, for having undertaken his defence, as if it were not the bounding duty of a professional man to exercise his faculties in the cause of justice, impartially? Without making myself a party to the cause of my client, I hold myself bound to stand up in his defence, and to take care that whatever be the offence alledged against him, he shall have all the benefits to be derived from the law, and from the pure administration of it. I say, Gentlemen, that the Constitution would be gone indeed, if the feelings, the foibles, the virtues, the caprices of Barristers were to be indulged, in the causes in which they take a part.—What would be the consequence of giving them an election? What would be the consequence if it were to be permitted to a man high in his profession to exercise his discretion in stating what causes he would appear in, and in what not! Would it not be given a previous judgment in the case? would it not be arrogating the himself to province of the Judge, and giving a colour and prejudice to the case. I am sure the Nobl. Lord will tell you, that it is inconsistent with the pure administration of Justice, that personal feelings should be permitted to weigh against public duty. I do not affect to hold myself out as a person so high in the profession as that weight should be given to the authority of my example; but yet from my station at this Bar, I may say, without the imputation of vanity, that it would be a flagrant breach of the integrity of the practice, detrimental and injurious to the character of the Bar, if I could be induced by any considerations to forego the defence of a client. I have there-

fore, Gentlemen, treated with the contempt that they merited, all the sarcasms, all the calumnies, with which the conversation of companies, and the columns of newspapers, have been loaded. Regardless of all that folly and of all that malice, can utter, I shall maintain until I die, the equal right of every man of this kingdom to a fair trial, and on this ground I stand up to defend this book, and this author, as by the law of England he, and it, can be defended. It is my duty, Gentlemen, to state the Question of this day. The Question is not whether the English Constitution be preferable to that of America, or that of France, for the common sense of the most uninformed person must revolt at such an idea; for how can a Court constituted by English Government and English Law give a decision against that which creates its authority and constitutes its jurisdiction. It is not therefore the question this day to try whether the doctrines of this Author are congenial with the Constitution of England; not whether they are doctrines opposite to, and in hostility with the Constitution of England; but whether the book has been written and published agreeable to, and in conformity with, the law of the land.

I will make myself clearly understood—Suppose then that the doctrines of THOMAS PAINE were doctrines, Gentlemen, of which every one of you approved, and that I were now addressing myself to a Jury of Republicans. I say that you would not be authorised to give a verdict for the Defendant, if it should be made manifest to you, by the evidence, that he wrote these doctrines, and published them for the malignant purpose of promoting an insurrection in the country, thereby offending against the laws of the land; you have no jurisdiction and authority but from law; you have no right to a verdict in favour of a man offending against the law, because you may happen to entertain opinions of the same kind which produced this breach of the law. This the Noble Lord will tell you from the Bench, and it is material for you to reflect upon this clear description of your duty; for it matters not how perfectly consistent with your opinions the doctrines might be; if they are contrary to the spirit and letter of the law, you must condemn them. Were I therefore, as I say, addressing a body of men who lived upon this book, of whom it was the soul who doated on it, as on an angel from Heaven, I would say, Gentlemen, you cannot acquit this man if he has committed

mitted an offence against the law. It is not whether his opinion be your's ; you are not to try his opinions, for the law has nothing to do with opinions ; the law binds only conduct, it leaves opinion open. You must see, therefore, what his conduct has been, and suffer not the congeniality of your opinions to blind and influence your judgments.

This may be considered as a large concession, by some, as an artful manœuvre by others ; but I assert, that it is a clear distinct description of the office of the Jury ; for on the other hand, if you shall disapprove of the doctrines of THOMAS PAINE, if you shall think that the Government of England has not the infirmities he imputes to it, nay, that the passages of the book related by the Attorney-General tend to injure that Constitution, and to alienate the minds of the people of this country from the love of it ; I say, that you cannot convict this man, unless you shall be convinced that he has overstepped the freedom of the Press ; for, Gentlemen, you must look at the mind, you must enquire whether he has written this book with an honest attention, from the genuine sentiments of his heart, and from pure conviction that he was thereby promoting discussions for the benefit of his fellow-citizens ; and this is to be collected from the matter on the record.

If a man is to judged on entrinsic matter, that matter must be brought into connection, and put upon the record, that the Jury may be able to judge of it, and that the Defendant may have all the benefits of the law. What crime then is charged upon this man ?—That he has published this book and this book is hostile to the Constitution ? No. The law of England knows no such crime. It must be proved, in order to constitute his guilt, not whether the Attorney-General approves the book—not whether you approve the book—but whether PAINE did not sit down and write a book against a Constitution which he admired and loved, with the diabolical intention of provoking discord and sedition in the country. If this were proved, THOMAS PAINE could not be defended ; but if he thinks what you and I do not think, that the Constitution of England is not the best calculated to promote the happiness of the people of this country, he is not guilty of any offence against the law, though his opinion may be inconsistent with the principles of the Constitution. Every man is
protected

protected in his opinions. It is only his conduct that makes guilt.

I hold it, Gentlemen, to be the duty of an advocate, if he should happen to have sentiments different from his client, that he is bound to conceal them. I hold him equally bound to disclose his opinions, if they should happen to be favourable to him; for he is bound to exert his whole faculties in support of his client. I am sure that it will be of little weight, what may be my opinion upon these doctrines; but I am ready to give to my client, all the benefit that he can derive from the declaration of my sentiments.

I profess myself then to love the genuine principles of the British Constitution; I solemnly believe, that that Constitution, as administered by King, Lords, and Commons, is the best calculated to secure the happiness of the people of this country of any frame of Government, ever conceived by man. I think it necessary thus to preface my particular opinions, that you Gentlemen may see, that they come from no suspected quarter. That we are in unison with each other; and that in striving to ascertain the truth, and to secure the happiness of this country, we are animated by a common principle.

I proceed, therefore, to say, and this proposition I pledge myself to myself to maintain, from the very nature of civil society and Government, as well as from the theory and practice of the English law, that unless it can be proved, which I contend it has not been, that he has endeavoured to excite individuals to rebellion against the national will, from an evil mind, you cannot convict him of a libel on the record. Though you and I may think differently, that is no object; there would be an end of the Liberty of Englishment; if they could not wait and speculate freely upon the principles of Government.

The Freedom and Liberty of the Press of England, Gentlemen, consist in this, that an man must not address to individuals, upon the spur of some occasion, opinions that shall provoke them to sedition, to insurrection, and tumult; but he may freely address to the universal reason of the whole Nation, principles of Government congenial with or hostile to
form

form of the Government under which he lives. He may canvass the forms of Government in general, or he may discuss those of his own in particular; he may take them to pieces,—he may scrutinize them with the greatest rigour—he may state what he thinks to be wrong in the original conception; he may trace the gradual progress of decay, or of corruption; he may point out the consequences; he may dwell on their enormity; he may warn the people of their fate; and, in all this, he not the subject of a criminal prosecution. He is not criminal, unless he did it, not, contemplating the hope of meliorating the condition of the people, but feasting on the misery, with the prospect of which he indulged a diabolical nature.

The Liberty of the Press consists in this, that an individual may teach his fellow-citizens doctrines in opposition to those under which they live; he may exercise his own faculties; he may provoke them to the exercise of theirs; he may persuade the whole people to agree with him in these doctrines, and he is not guilty: but if he shall teach it as a doctrine, that any individual may oppose the law of the land, may resist the legal authority, and may, by himself, or in conjunction with others, not merely disobey, but thwart and impede the settled order of society, he would be guilty of a libel upon the record.

Shew me an expression like this in the books of THOMAS PAINE; shew me, from any part of the evidence which the ATTORNEY GENERAL has brought forward, any thing to prove the evil mind of the Author. The ATTORNEY GENERAL has brought forward a set of passages, but he knows that passages are not to be taken without the context. You must discover the mind of THOMAS PAINE in his book, and as you take the book out of Court with you, it will be your duty to read it carefully. What will you say, Gentlemen, when you find, in the very preface to his book, the following sentiments? Every one knows, that the very end of a preface is to announce to the reader the intention and substance of the following tract: and here you will find, Gentlemen, in the very outset of this dangerous and diabolical performance, an antidote to the very poison which it is stated to disseminate.

“ If a law be bad, it is one thing to oppose the practice of it, but it is quite a different thing to expose its errors, to reason on its defects, and to shew cause why it should be repealed, or why another ought to be substituted in its place. I have always held it an opinion (making it also my practice), that it is better to obey a bad law, making use at the same time of every argument to shew its errors, and procure its repeal, than forcibly to violate it: because the precedent of breaking a bad law might weaken the force, and lead to discretionary violation of those which are good.*

“ It is for the good of Nations, and not for the emolument or agrandizement of particular individuals, that Government ought to be established, and that mankind are at the expence of supporting it. The defects of every Government and Constitution, both as to principle and form, must, on a parity of reasoning, be as open to discussion as the defects of a law; and it is a duty which every man owes to society to point them out. When then these defects, and the means of remedying them are generally seen by a Nation, that Nation will reform its Government or its Constitution in the one case, as the Government repealed or reformed the law in the other. The operations of Government are restricted to the making and the administering of laws; but it is to a Nation that the right of forming or re-forming, generating or re-generating Constitutions and Governments belong; and consequently those subjects, as subjects of investigation, are always before a country as a matter of right, and cannot, without invading the general right of that country, be made subjects for prosecution.”

These, Gentlemen, are the Rights of Man; for no man can, without rebellion, withdraw his obedience; nothing short of the will of the whole can alter the Constitution of a country, but every individual of that country may publish his opinions, may give his advice, and may endeavour to bring other people over to his sentiments. If a man taught
that

* The case is the same with respect to principles and forms of Government, or to what are called Constitutions, and the parts of which they are composed.

that his fellow-citizens might act at their discretion, if he were to say that their natural rights freed them from all restraint, and that they were to form to themselves the rule of their own conduct, in direct opposition to the existing law, he could not be acquitted by a Tribunal of English Justice; but if a man teaches the wisdom of Revision and Reform, the duty of meliorating our condition to the uttermost, or even the advantages that would flow, in his opinion, from a complete alteration of the form of our Government, he acts upon the known, acknowledged valuable privileges of an Englishman. Thanks be to God, and to the wisdom of our ancestors, such has ever been our advantageous Liberty, with some slight and melancholy interruptions, which I shall bye and bye state to you. If no man could have gone before the day in which he lived, and pointed out, from the force of superior intellect improvements in our social system, how could Government have passed on from stage to stage, from state to state, until at last it has acquired the beautiful shape and prosperous establishment, which the ATTORNEY GENERAL thinks it would be profanation to touch, and to such a state of perfection as to make it a vain hope to look for any further melioration?

What is the fairest fruits of the English tree of liberty?—The security of our rights and of the law, and that no man shall be brought to trial where there is a prejudice existing against him. If any thing appears that can affect the minds of the Jury, the Court upon motion will postpone the trial. The Noble Lord will recollect, that upon this principle the trial of the Dean of St. Asaph was postponed; for it was stated in the Court, that a number of extracts from ancient Books, asserting the rights of Juries, had been circulated; and the Noble Lord put off the trial. If such was the case upon the mere circulation of a set of extracts from a set of writers of high authority, what must be the situation of my client?—his book, and this defendant, have been the subjects of every sort of imputation. Pending the trial, even a set of Associators, who know so little of the Constitution of England, as to interfere with the course of justice, circulate an answer to this very pamphlet. It is given away at turn-pikes thrown down our areas, thrust into every man's hand. The coffee-houses, the newspapers are full of it—nay, that high tribunal, which is the guardian and the representative of the

the popular branch of England, he has been insulted with anathemas against the man, and against this book. What is the result of all this?—That the cause is prejudged—that the mind of no man within the sweep of this torrent can be free; and that if I had made a motion in the Court, I am confident that the Noble Lord would have postponed the trial. What is the consequence of all this? You, Gentlemen, must guard your minds against the approach of this frenzy; that you must collect firmness with conscience, and elevate yourselves above the feebleness of human weakness. You must discover his mind in this book, not in the rage, nor the cant of the times. You must throw away every thing but the book—the forged letter that has been read to you, you must equally reject. I heard of this false forged letter, and I have reason to believe it to be a foul forgery brought forward at this moment, not merely to embarrass me, but to embarrass you; but you must prove that you are not men, whose understandings are to be tortured by such appeals. You will prove by your verdict, that you will deal with this man as you would wish to be dealt with in a similar situation.

Remember this doctrine of Englishmen, that *opinion is free.*

If I were to move an amendment in any part of the existing laws of the land, would it be right, would it be reasonable, that you should convict me of a libel, because you differed from me in opinion? It is the opinion of this author, that it is the duty of every citizen to obey a law while it exists. “When a nation (says he) changes its opinion and habits of thinking, it is no longer to be governed as before; but it would not only be wrong, but bad policy to attempt by force, what ought to be accomplished by reason. Rebellion consists in forcibly opposing the general will of a nation, whether by a party or by individuals.”

Such is the doctrine of THOMAS PAINE; and I assert this to be the true law of England; and I say, that I give best proof of my attachment to the illustrious family upon the Throne, when I maintain these doctrines; and when I assert, that they are the safest for their desirable interest and for their honour.

The Attorney-General, in his observation upon the infamous aspersion of the Royal Family, speaks of the heir-apparent of the Crown from hope—I speak from knowledge.

Without detaining you for one moment to animadvert on what I think, indecency of the tameness with which imputations on the Royal progeny have been suffered of late, of the apparent disinclination to prosecute what tends to break the best hopes of English men, and wound the fondest feelings of the Royal bosom while there is an eagerness to prosecute the discussion of popular opinions. I believe, and I know, that if ever there was a man more firmly attached than another to the pure principles of the British Constitution, to those rights of the people, the exercise which seated the present Family upon the Throne, it is the Heir Apparent of the Crown of these realms. If there shall come a time that, by the course of nature, and God forbid that it should ever happen, otherwise than by the course of nature, he should succeed to the throne of his ancestors, I have the firmest confidence that he will make the Constitution the rule of his conduct. I know that these sentiments are congenial to his breast. I had the honour, in my place in the House of Commons, when I believe that august person was present, to pronounce my opinion on political doctrines, and to put the title of the King's Majesty upon her right which the people have to chuse their Chief Magistrate—the only right upon which, in my opinion, the title can be truly safe.

In endeavouring to find the true spirit with which this book was written, you must go back to the train of circumstances which has formed the habits and opinions of the author. You cannot have forgotten that calamitous æra in our history, to which no man can look back without horror, æra of the American war.

This man performed a considerable part on that memorable theatre; and of his conduct there, Mr. Burke, that celebrated character, of whom I cannot speak otherwise, than with great respect, however he may affect to treat me with contempt, has spoken of the conduct of Thomas Paine with high respect.

Here Mr. Erskine read some quotations from his *Thoughts*

on the Causes of the present discontent, and other works in commendation of Thomas Paine, and he said that these two persons used to be of the same mind, though they now differ.

Paine might be right, Mr. Burke could not be right, for Mr. Paine had been consistent with himself, but Mr. Burke had contradicted every former opinion. Paine seeing the consequences of the conduct of Britain with regard to America, had attacked the English Constitution, for Erskine said, he does attack the English Constitution—I do not affect to deny it. He speaks against the original frame of our Constitution; what I think is only applicab^le to his decay; and what, for I will not mince the matter, proceeds from corruptions which bring on ruin to us all, if I did not know and believe that the Constitution contains the seeds of its own reform.

Is it libellous in him, however, to say what he has said against the constituent branches of our Constitution?—The grandest authorities of England have done the same.

Mr. Erskine quoted a passage of a letter from Sir George Savil to his constituents—Vide Annual Register for 1780, p. 400 :

“ I return to you, (says Sir George,) baffled and dispirited, and, I am sorry that truth obliges me to add, with hardly a ray of hope, of seeing any change in the miserable course of public calamities.”

And of Sir George Savile, Mr. Erskine gave the admirable character as drawn by Mr. Burke.

At this time Mr. Paine and Mr. Burke fought in the same field—Mr. Burke spoke to Parliament, Mr. Paine to the people. Mr. Paine has only been a plagiarist from himself; he has been drawn on in the same train of thinking; and therefore I assert that this book is the product of his real sentiments, the genuine efforts of a mind struggling for what he conceives to be interests of Humanity.

The cause is potent, it produced the revolution in America, it produced the revolution in France; where a Govern^{ment}

vernment, incurable from its corruption and profligacy, was totally overthrown; but can the same doctrines affect the Constitution of England? No. His doctrines had no effect, nor could there have occurred a period when the public mind could have been excited by any such doctrines, if it had not been previously provoked by the inflammatory, the ill-judged, and the exasperating doctrines of Mr. Burke. He it was who led the van in all this war of sedition.—Let us go back for a moment to this origin. When the people of this country saw this despicable Government of France demolished—that Government which had been the scourge of England—They rejoiced in the happiness of so many millions.

A reverend divine, now no more, made it the subject of his exhortation in the pulpit. A society of gentlemen met to celebrate it, and Mr. Burke was roused by this into the fever of opposition. Though he represented them as an insignificant body of obscure individuals, he attacked the whole system of England with such bitterness of invective, and attacked the most established doctrines, with such vehemence of dissent, that from that day till this the flame of contention has not ceased to rage.

What was the principle of this work?—That the people of England had no right, no power to change a tite of their Constitution; that it was an indissoluble compact, which at no time, on no ground, for no reason, could be broken: so that neither reason nor revelation, however they might point to the people of England a better form of Government, wiser institutes of peace, stronger bases of liberty, they durst not strive to attain them. If it be so, for God's sake, let policy and discretion conceal the afflicting truth; for it will surely lead to the convulsion which he affects to deprecate. Rather put Paine into the hands of every man, make the lowest ignorance acquainted with his doctrines, and chase away, if it be possible, the impressions which Mr. Burke has made. How different is the doctrine of truth and peace! How different is the doctrine of the Revolution! Look at the constitution, say to the friends of liberty, is it your own treasure. Will you keep it as it is, or will you change it at the suggestion of every theorist? Your own happiness is at stake; but remember the happi-

ness that it has produced you. Will they not be likely to touch with awe a Constitution which comes thus recommended to them by parental tenderness? and will they not protect it with parental authority?—Look now at the address of Mr. Burke. Here is your Constitution, which we have made for you, and your posterity for ever. We buckle it on your backs, for you are beasts of burden. You must not dare touch it—you have entered into a compact which is indissoluble. Are such doctrines the legitimate way of endearing the Constitution to the people; And I mention all this in order to shew you what the book of Mr. Paine is; for Paine's book is an answer to those doctrines of Mr. Burke—doctrines more injurious than any that could be asserted by Republicans and Levellers!

Mr. Erskine then cited several of our most eminent English Writers, whose sentiments are congenial with those of Mr. Paine on the subject of Government.—He first quoted Mr. Paley on the Principles of Moral and Political Philosophy, p. 426.

V. “ No usage, law, or Authority whatever is so binding, that it need or ought to be continued, when it may be changed with advantage to the Community. The family of the Prince, the order of succession, the prerogative of the Crown, the form and parts of the Legislature, together with the respective powers, office, duration, and mutual dependency of the several parts, are all only laws, mutable like other laws, whenever expediency requires, either by the ordinary act of the Legislature, *or, if the occasion deserve it, by the interposition of the People.*”

These points are wont to be approached with a kind of awe; they are represented to the mind as principles of the Constitution settled by our ancestors, and being settled, to be no more committed to innovation or debate: as foundations never to be stirred; as the terms and conditions of the social compact, to which every citizen of the state has engaged his fidelity, by virtue of a promise, which he cannot now recall.

Such reasons have no place in our system: to us, if there be any good reason for treating these with more deference and respect than other laws, it is, either the advantage of
the

the present Constitution of Government (which reason must be of different force in different countries), or because in all countries, it is of importance, that the form and usage of governing be acknowledged and understood, as well by the governors as the governed, and because the seldomer it is changed, the more it will be respected by both sides."

Mr. Erskine then introduced Hume's History of England, vol. 2. p. 88.

"It must be confessed that the former articles of the Great Charter contain such mitigations and explanations of the Feodal Law as are reasonable and equitable; and that the latter involve all the chief outlines of a Loyal Government, and provide for the equal distribution of Justice, and free enjoyment of property; the great object for which political society was at first founded by men, which the people have a perpetual and unalienable right to recall, and which no time, nor precedent, nor statute, nor positive institution, ought to deter them from keeping ever uppermost in their thoughts and attention."

The next Writer was the immortal Locke, and he cited the following passages from his Treatise on Civil Government, p. 268. 270. 309. 313.

"All men, say they, are born under Government, and therefore they cannot be at liberty to begin a new one. Every one is born a subject to his father, or his prince, and is therefore under the perpetual tie of subjection and allegiance. It is plain mankind never owned, nor considered any such natural subjection that they were born in, to one or to the other, that tied them, without their own consents, to a subjection to them and their heirs."

"Those who would persuade us, that by being born under any government we are naturally subjects to it, and have no more any title or pretence, to the freedom of the state of nature, have no other reason (bating that of paternal power, which we have already answered) to produce for it, but only because our fathers or progenitors passed away their natural liberty, and thereby bound up themselves and their posterity to a perpetual subjection to the government, which they themselves submitted to. It is true, that whatever engagements or promises

mises any one has made for himself, he is under the obligation of them, but *cannot, by any compact whatsoever, bind his children or posterity*; for his son, when a man, being altogether as free as the father, any *act of the father can no more give away the liberty of the son, that it can of any body else.*"

" And therefore they have a very wrong notion of Government who say, that the people have incroached upon the prerogative, when they have got any part of it to be defined by positive laws; for in so doing, they have not pulled from the prince any thing that of right belonged to him, but only declared that the power which they indefinitely left in his or his ancestor's hands to be exercised for their good, was not a thing which they intended him when he used it otherwise: for the end of Government being the good of the Community, whatsoever alterations are made in it, tending to that end, cannot be an encroachment upon any body, since nobody in Government can have a right tending to any other end; and those only are encroachments which prejudice or hinder the public good."

" Those who say otherwise, speak as if the prince had a distinct and separate interest from the good of the Community, and was not made for it; the root and source from which spring almost all those evils and disorders which happen in Kingly Governments. And indeed, if that be so, the people under his Government are not a society of rational creatures, entered into a community for their mutual good; they are not such as have set rulers over themselves, to guard and promote that good; but are to be looked on as an herd of inferior creatures, under the dominion of a master, who keeps them and works them for his own pleasure or profit. If men were so void of reason, and brutish, as to enter into society upon such terms, Perogative might indeed be, what some men would have it, an arbitrary power to do things hurtful to the people.

" And therefore, though the People cannot be judge, so as to have, by the constitution of that society, any superior power, to determine and give effective sentence in the case; yet, they have by a law antecedent and paramount to all positive laws of men, reserved that ultimate determination to themselves which belongs to all mankind; God and Nature
never

never allowing a man so to abandon himself, as to neglect his own preservation; and since he cannot take away his own life, neither can he give another power to take it. Nor let any one think this lays a perpetual foundation for disorder; for this operates nor till the inconveniency, is so great, that the majority feel it, and are weary of it, and find a necessity to have it amended. But this the executive power, or wise princes, never need come in the danger of; and it is the thing, of all others, they have most need to avoid, as of all others the most perilous."

The following passages from the same Author are so pertinent that we scruple not to add them :

"Whensoever, therefore, the legislative shall transgress this fundamental will of society, and either by ambition, fear, folly, or corruption, endeavour to grasp themselves, or put into the hands of any other an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the force, treasure, and offices of the Society, to corrupt the representatives, and gain them to his purposes: or openly pre-engages the electors, and prescribes to their choice such, whom he has by solicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised before-hand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the Government by the roots, and poison the very fountain of public security? For the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they
may

may always be freely chosen, and so chosen, freely act and advise, as the necessity of the commonwealth, and the public good, should, upon examination, and mature debate, be judged to require. This those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a breach of trust, and has perfect a declaration of a design to subvert the Government, as is possible to be met with. To which, if one shall add rewards and punishments visibly employed to the same end, and all the arts of perverted law made use of to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust which went along with it in its first institution, is easy to determine; and one cannot but see, that he who has once attempted any such thing as this, cannot any longer be trusted."

" But it will be said, this hypothesis lays a ferment for frequent rebellion. To which I answer.

" First, No more than any other hypothesis: for when the People are made miserable and find themselves exposed to the ill usage of arbitrary power, cry up their governors, as much as you will, for sons of Jupiter; let them be sacred and divine, descended or authorized from Heaven; give them out for whom or what you please, the same will happen. The People generally ill-treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. They will wish, and seek for the opportunity, which in the change, weakness and accidents of human affairs, seldom delays long to offer itself. He must have lived but a little while in the world, who has not seen examples of this in his time; and he must have read very little, who cannot produce examples of it in all sorts of governments in the world.

" Secondly, I answer such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in

in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be born by the People, without mutiny or murrur. But if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whether they are going; it is not to be wondered at, that they should then rouse themselves, and endeavour to put the rule into such hands as may secure to them the ends for which Government was at first erected; and without which, ancient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure Anarchy; the inconveniencies being all as great and as near, but the remedy farther off and more difficult.

“ Thirdly, I answer, that this doctrine of a power in the people of providing for their safety a-new, by a new legislative, when their legislators have acted contrary to their trust, by invading their property, is the best fence against rebellion, and the probablest means to hinder it: for rebellion being an opposition, not to persons, but authority, which is founded only in the Constitutions and Laws of the Government; those, whoever they be, who by force break through, and by force justify their violation of them, are truly and properly rebels: for when men, by entering into society and civil government, have excluded force, and introduced laws for the preservation of property, peace and unity amongst themselves, those who set up force again in opposition to the laws, do *rebellare*, that is, bring back again the state of war, and are properly rebels: which they who are in power, (by the pretence they have to authority, the temptation of force they have in their hands, and the flattery of those about them) being likeliest to do; the properest way to prevent the evil, is to shew them the danger and injustice of it, who are under the greatest temptation to run into it.

“ Nor let any one say, that mischief can arise from hence, as often as shall please a busy head, or turbulent spirit, to desire the alteration of the Government. It is true, such men may stir whenever they please; but it will be only to their own just ruin and perdition: for till the mischiefs be grown general, and the ill designs of the rulers become visible,

ble, or their attempts sensible to the greater part, the people, who are more disposed to suffer than right themselves by resistance, are not apt to stir."

"The examples of particular injustice, or oppression of here and there an unfortunate man, moves them not. But if they universally have a persuasion grounded upon manifest evidence, that designs are carrying on against their liberties, and the general course and tendency of things cannot but give them strong suspicions of the evil intentions of their Governors, who is to be blamed for it? Who can help it, if they, who might avoid it? bring themselves into this suspicion? Are people to be blamed, if they have the sense of rational creatures, and can think of things no otherwise than as they find and feel them?—And is it not rather, their fault who put things into such a posture, that they would not have them thought to be as they are? I grant that the pride, ambition, and turbulency of private men, have sometimes caused great disorders in commonwealths, and factions have been fatal to states and kingdoms. But whether the mischief hath oftener begun in the people's wantonness, and a desire to cast off the lawful authority of their rulers, or in the rulers' insolence, and endeavours to get and exercise an arbitrary power over their people; whether oppression or disobedience gave the first rise to the disorder, I leave it to impartial history to determine."

Mr. Burke's Letter to the Sheriffs of Bristol, was then introduced; and Mr. Erskine read the following passages from p. 55, 57. 58.

"If there be one fact in the world perfectly clear, it is this, 'that the disposition of the people of America is wholly averse to any other than a free Government;' and this is indication enough to any honest Statesman, how he ought to adapt whatever power he finds in his hands to their case.

"If any ask me what a free Government is, I answer, that, for any practical purpose, it is what the people think so; and that they, not I, are the natural, lawful, and competent judges of this matter. If they practically allow me a greater degree of authority over them, than is consistent with

with

with any correct ideas of perfect freedom, I ought to thank them for so great a trust, and not to endeavour to prove from thence, that they have reasoned amiss, and that having gone so far by analogy, they must hereafter have no enjoyment but by my pleasure,

“ Civil Freedom, gentlemen, is not as many have endeavoured to persuade you, a thing that lies hid in the depth of abstruse science. But is a blessing and a benefit, not an abstract speculation; and all the just reasoning that can be upon it, is of so coarse a texture, as perfectly to suit the ordinary capacities of those who are to enjoy and defend it.

“ For Liberty is a good to be improved and not an evil to be lessened. It is not only a private blessing of the first order; but the vital spring and energy of the state itself, which has just so much life and vigour as there is liberty in it. But whether liberty be advantageous or not, (for I know it is a fashion to decry the very principle) none will dispute that peace is a blessing; and peace must, in the course of human affairs, be frequently bought with some indulgence and toleration at least of liberty. For as the Sabbath (tho’ of divine institution) was made for man, not man for the Sabbath, Government, which can claim no higher origin or authority, in its exercise at least, ought to conform to the exigencies of the times, and the temper and character of the people with whom it is concerned and not always to attempt, violently to bend the people to their theories of Subjection. The bulk of mankind, on their part are not excessively curious concerning any theories, while they are really happy; and one sure symptom of an ill-conducted state, is the propensity of the people to resort to them.”

Do not let us be rash, Gentlemen, in deciding upon this great question. Before we condemn this Author by bell, book, and candle, let us reflect a little on the progress of the principles of freedom.

It is but one year ago that I could have an opportunity of addressing to you such an argument. Gentlemen, your authority to judge of a libel is but a year old. It is but seven or eight years ago when I stood upon a question like the present, upon very different grounds, when I had less to

support me against the embarrassments with which I was surrounded in the presence of an enlightened profession, and holding a doctrine that was scouted.

The Earl of Mansfield, who, though he could not treat me with unkindness, for it was not in his nature, laughed at me as you laugh at the prattle of a child; and I was desired to go to school with my new-fangled doctrines, to learn the law of the land. Here is an argument against rashness. I have lived to see the Parliament of England unanimously declare I was in the right.

Knowing then that it has been by slow and gradual degrees, that the Constitution of England has grown to what it is, for God's sake let us be careful not to stifle the voice of reason by a rash and hasty decision. If Mr. Burke's doctrine be right, no opinions upon government can be published, for the people have no jurisdiction. If the people have not the power to alter and amend, advice is not merely impertinent, it is dangerous. A jurisdiction to be competent must have power; and, when, therefore, he asserts that the people of this country are utterly and for ever deprived of the power of changing their Constitution, he pronounces a prohibition upon all reasoning, upon all opinion, upon all discussion.

What has been the course of man? That he has been led by awful authorities, step by step, from his savage state in the woods, to our present blessed condition of light, of knowledge, and of enjoyments. We should still be savages, we should yet be in the woods, if this prohibition had existed; and to what must we return, if every man is to be condemned, who shall now promulgate the opinions that he entertains upon the nature of Government?

Of all the attainments of a people, the Liberty of the Press has been uniformly the last—Uniformly despotism has resisted the propagation of truth. All other concessions power has been willing to make, but against the truths of reason—against the light of knowledge, it has maintained an eternal war.

Let us recollect the course of the world, the universal God of Nature, the Saviour of Mankind, the Fountain of all light, who came to save man from eternal darkness, expired on a cross—the object of Infidel scorn—of impious incredulity, because they rashly opposed the meek and mild propagation of the truths that were to point to peace and happiness in the world. His blessed followers fell victims to the same horrid spirit. The Saviour might have come, invested with eternal power, and compelled the instantaneous acceptance of his doctrines.

But he came to confound the pride of worldly power. He came clothed in meekness, in benevolence, in humility, and he preached his consolations to the poor; in this way did political power continue to exercise its tyranny, until religion had arisen to such a standard as to make it formidable; and then political power took ecclesiastical power into partnership, when they exerted their combined efforts at once against the reason, and conscience of man.

Thus upon the revival of letters, was superstition made the instrument of political tyranny; but at length the inquisitive spirit of Englishmen burst the chains, and the Liberty of the Press had its beginning. It was free until, in 1637, the Star Chamber was erected; mark the consequence, the people suffered under the restraint indeed; but in eleven years Charles I. perished on a scaffold.

Gentlemen, the human mind cannot live under restraint. Let men communicate their thoughts with freedom, and their indignation fly off like a fire spread on the surface; like gunpowder scattered they kindle, they communicate;—but the explosion is neither loud nor dangerous:—keep them under restraint, it is a subteraneous fire, whose agitation is unseen till it bursts into earthquake or volcano.

Such was the whole effect of the restraints in England. Cromwell suffered almost all his misfortunes from this cause, and the vigour of his Government could not save it against the consequences of his attack on the Liberty of the Press. The restraint continued under Charles the II and the emotions that it produced, happily for England and for man, ended in the Revolution. All the licenses were done away,

the Press was made free, and the Constitution has already endured a century.

Thus, Gentlemen, our government has been safe in proportion to the freedom of writing.

Here Mr. Erskine produced some of the finest authorities of England—the glorious Milton led the van: his memorable passage, that in former times the issue of the brain was no more stifle than the issue of the womb, and his fine illustration of the consequences of suppressing truth, in the fate of Galileo, were dexterously used by Mr. Erskine—He perished in a prison, because he ventured to think, from observing the phases of Venus, that the sun was the centre of our system, and yet, said he, we know that the sun is in that centre, and by our knowledge, we are enabled to push our navigation to the extreme limits of the world, and, by line and rule, to make our way through regions the most unknown.

He then cited the following passage from Milton's *Areopagitica*, p. 51.

“ If it be desired to know the immediate cause of all this free writing and free speaking, there cannot be assigned a truer than your own mild and free, and humane government; it is the Liberty, Lords and Commons, which your own valorous and happy counsels, have purchased us liberty which is the nurse of all great wits: this is that which hath rarified and enlightened our spirits like the influence of heaven; this is that which hath enfranchised, enlarged, and lifted up our apprehensions, degrees above themselves. Ye cannot make us now less capable, less knowing, less eagerly pursuing of the truth, unless ye first make yourselves, that made us so, less the lovers, less the founders of our true liberty. We can grow ignorant again, brutish, formal and slavish, as ye found us; but you then must first become that which ye cannot be, oppressive, arbitrary, and tyrannous, as they were from whom ye have freed us. That our hearts are now more capacious, our thoughts now more erected to research and expectation of the greatest and exactest things, is the issue of your own virtue propagated in us, ye cannot suppress that, unless ye reinforce an abrogated and merciless law, that fathers may dispatch at will their own children.
and

And who shall then stick closest to ye, and excite others. Not he who takes up arms for coat and conduct, and his four nobles of *Danegel*. Although I dispraise not the defence of just in munities, yet love my peace better, if that were all. Give me the liberty to know, to utter, and to argue freely according to conscience, about all liberties."

The Attorney General had given no principles to draw the line by which we were to know where the liberty of the press ended, and the licentiousness began. He applied Lord Loughborough's memorable observation of the application. "To your tents, O Israel," as a pregnant instance of what would be seditious. Earl Stanhope had, with great shrewdness, ridiculed this sort of liberty of the press, which was to be all on one side—a liberty to praise Ministers. This is a sort of liberty that even the Empress of Russia would give you, and it may be called the Russian liberty of the press.

To make the work of the author appear seditious, the doctrine of Lord LOUGHBOROUGH must be proved. It must be shewn that his doctrine was coupled with circumstances, or with expressions, tending clearly to provoke tumult; such as, "We shall see how this will work—This will bring on a new revolution—we shall have French insurrections." But, said Mr. Erskine, no such thing: if one such expression had been proved, I would have thrown up my brief—as they are not, I stand up to give him the benefits of a fair trial, and I am not to be slandered with the charge of disaffection for exercising my faculties in his defence. When my Lord and I were engaged together as counsel for Lord George Gordon, as well we might have been suspected of favoring tumult and disorder, as that I now should be of sedition and disaffection.

Mr. Erskine then cited a passage from Lord Stanhope's *Rights of Juries Defended*, as follows, p. 142, 143, 144.

"The thing that is illegal, is the exciting any one to sedition, or to a breach of the Peace. The question, therefore, upon a Libel is, whether the Paper published *did thus excite* AND WAS SO INTENDED. Consequently mere *speculative* writings on the *Constitution* are not Libels, however *abjurd*

they may be. Suppose, for instance, that a man were to write a *speculative* Work, to prove that a trial by a single Judge would be far preferable to the Trial by Jury, or that a Parliament, composed only of a King and House of Peers, would be beyond comparison better than a Legislature of King, Lords, and Commons. No man could possibly reprobate such a Work more than I should: but if the Work did *not* excite the people to sedition, such a *speculative Publication* could never be deemed a *Libel*: for *absurdity* is no part of the *definition of a Libel*.

“ If our *boasted* Liberty of the Press were to consist only in the Liberty to write *in praise* of the Constitution? that is a Liberty enjoyed under many an *arbitrary* Government.— I suppose it would not be deemed an *unpardonable* Offence even by the *Empress of Russia*, if any man were to take it into his head to write a panegyric on the *Russian form of Government*. Such a Liberty as *that* might therefore properly be termed the Russian Liberty of the Press. But, the English Liberty of the Press is of a very different description: for, by the Law of England, it is *not* prohibited to publish *speculative* Works upon the Constitution, whether they contain Praise or Censure.

“ The Liberty of the Press is of inestimable value: for, without it, this Nation might soon be as thoroughly enslaved as France was, or as Turkey is. Every man who detests the old Government of France, and the present Government of Turkey, must be therefore, earnest to secure the Palladium of Liberty; and must also be anxious to preserve to the people, inviolate, the Trial by Jury, that transcendent, that incomparable and guardian Right.”

Mr. Erskine came now to examine the passages set forth in the Information. We have already gone at so much length into his general argument, as to be unable to follow him in the ingenuity of his observations on his Extracts.— As to the first, that all hereditary Government was a tyranny, he desired the Jury to look at the context. I deny says Paine, that hereditary Monarchy is the Constitution.— He does not inherit us like flocks, for the people may confer it; they have conferred it. This is his argument.

The second was an extraordinary selection—it would be

no attack upon the Revolution, if it had been accomplished by demons. Do we love the Reformation less for being accomplished by one of the most profligate of our Kings? No matter that the Revolution was brought about by intrigue; that it was the work of a Coalition. It is not by whom, but what it is, that the People will enquire.

He contended, that the People had, by the freedom of opinion, obtained every thing from Magna Charta downwards? The third quotation, that we had hardly any law in England, was no libel; for he did not arraign the administration of law, and many of our best writers had asserted, that there was much confusion, much difficulty, much to be mended in our jurisprudence.

With regard to the passages on the two Houses of Parliament, it was strange that Mr. Burke should accuse him; he who had so severely, so outrageously impeached both Houses in their turn; and here he quoted some of the memorable passages of Mr. Burke, of the Lords voting themselves useless, and of an addressing House of Commons, when there was a petitioning People.

He quoted also the memorable Proclamation of Mr. Pitt and the Duke of Richmond, from the Thatched House Tavern; but these illustrations of his arguments we must for the present postpone. On the celebrated passage of Mr. Burke, that kings were naturally fond of low company, and Lords were only low buffoons, he made a severe comment.

It was a scandalous aspersion on the King, and on the Nobility; but these associators might write, though they would suffer no one to write but themselves, and yet, forsooth, these associators called themselves lawyers, though so ignorant of the character and delicacy of the law, as to propagate every species of prejudice against this man, and to create such a hue and cry against him, that if he had been stained with blood instead of ink—if he had been degraded by the crimes that make humanity abhorrent, ought not to have been raised against him in the moment of his trial—such a clamour, that even he was almost beat down and abashed by the roar.

Even in the House of Parliament he was stigmatized by name; but he had delivered his opinion with the spirit and independence that became a professional man, determined not to shrink from his duty, whatever might be the hazard.

These associators had with equal ignorance said, that the great Harrington was as great a thief, and as obscure a ruffian, even as Paine.—Who was Harrington? It might have satisfied them to have read his pedigree;—he was descended from eight Dukes, three Marquisses, seventy Earls, twenty-seven Viscounts, and thirty-six Barons; of which number sixteen were Knights of the Garter.

Will not this do, said Mr. Erskine, even for this time? In a Court of Germany, it would be decisive; but what was better than his descent, was his conduct.

He was the faithful servant of his master Charles; he was a man of such undoubted honour, that he avowed his Republican principles, yet retained the confidence and affection of his master.

“I know not,” says Toland, “which most to commend—the King for trusting an honest man, though of Republican principle, or Harrington for owning his principles while he served a King.”

How did he serve him? he staid in the Isle of Wight, to watch the fortune of his Royal Master; he came up by stealth, concealed in the boot of a coach, to take his last farewell of him; he fell into his arms, and fainted at his feet on the scaffold.

After Charles's death, he wrote the famous *Oceana*; and in the work pays a tribute of truth to the virtues of his unfortunate Sovereign, and ascribes his misfortunes to the feeble nature of a Monarchy.

Mr. Erskine stated the interesting anecdote, by which he recovered his *Oceana* from the gripe of Cromwell. He applied to his favourite daughter, and seeing her infant at her side, he snatched it up in his arms, and run away; alarmed for its fate, the mother followed him.

“I have

“ I have seized your child, (said Harrington,) your father has seized mine.—I restore to you your child—supplicate your father to restore my child.” The daughter supplicated and Cromwell yielded. “ If my Government,” said Cromwell, “ be made to stand, it will not be battered down by paper shot.”

After various other quotations from Montesquieu, Milton and other classics, he made a warm and affecting conclusion. “ Do not think that Englishmen are to be bent to your purpose by this froward course.”

Be to their faults a little blind—
 Be to their virtues very kind—
 Let all their thoughts be unconfin'd
 And clap your padlock on the mind.

Engage them by their affections, convince their reason, and they will be loyal from the only principle that can make loyalty sincere, vigorous, or rational, a conviction that it is their truest interest, and that their form of Government is for their common good. Constraint is the natural parent of resistance, and this is no new doctrine. In all times where one side has been tyrannical, the other has been refractory.

You must all remember, Gentlemen, Lucian's pleasant story; Jupiter and a countryman were walking together, conversing with great freedom and familiarity upon the subjects of heaven and earth. The countryman listened with attention and acquiescence, while Jupiter strove only to convince him, but happening to hint a doubt, Jupiter turned hastily round, and threatened him with his thunder—“ Ah! ah!” said the countryman, “ now, Jupiter, I know that you are wrong; you're always wrong when you appeal to your thunder.”

The Jury gave in their Verdict,

THOMAS PAINE,

GUILTY

Of the Charges alledged against HIM.







